

Annual Administrative Code Supplement
1998 – 2000 Edition

MICHIGAN JOBS COMMISSION
MICHIGAN TRAVEL COMMISSION
GRANT AWARD

PART 1. GENERAL PROVISIONS

R 2.101 Rescinded

History: rescinded 1999, Eff. Feb. 22, 1999.

R 2.102 Rescinded

History: rescinded 1999, Eff. Feb. 22, 1999.

R 2.103 Rescinded

History: rescinded 1999, Eff. Feb. 22, 1999.

PART 2. CONVENTION BUREAU GRANTS

R 2.111 Rescinded

History: rescinded 1999, Eff. Feb. 22, 1999.

R 2.112 Rescinded

History: rescinded 1999, Eff. Feb. 22, 1999.

R 2.113 Rescinded

History: rescinded 1999, Eff. Feb. 22, 1999.

R 2.114 Rescinded

History: rescinded 1999, Eff. Feb. 22, 1999.

R 2.115 Rescinded

History: rescinded 1999, Eff. Feb. 22, 1999.

R 2.116 Rescinded

History: rescinded 1999, Eff. Feb. 22, 1999.

R 2.117 Rescinded

History: rescinded 1999, Eff. Feb. 22, 1999.

R 2.118 Rescinded

History: rescinded 1999, Eff. Feb. 22, 1999.

R 2.119 Rescinded

History: rescinded 1999, Eff. Feb. 22, 1999.

R 2.120 Rescinded

History: rescinded 1999, Eff. Feb. 22, 1999.

R 2.131—R 2.140 Rescinded

History: rescinded 1999, Eff. Feb. 22, 1999.

**Annual Administrative Code Supplement
1998 – 2000 Edition**

DEPARTMENT OF STATE

BUREAU OF ELECTIONS

CAMPAIGN FINANCING

EXTENSION OF EMERGENCY RULE

Certificate filed with the Secretary of State on June 17, 1997, 10:03 a.m.

A rule relating to campaign financing was adopted by the department of state and was approved by the governor as an emergency rule pursuant to section 48 of Act No. 306 of the Public Acts of 1969, as amended, being §24.248 of the Michigan Compiled Laws. The rule became effective December 19, 1996, for a period of 6 months, but has been continued in effect for another 6 months, unless rescinded earlier as provided by law, by the filing of a governor's certificate of need for the extension. Pursuant to section 48, the rule is not given a Michigan Administrative Code number and is not compiled, but is only noted herein. Copies of the rule may be obtained from the Department of State, Office of Government Affairs, Treasury Building, Lansing, Michigan 48918.

ELECTIONS DIVISION

LOBBYIST REGISTRATION AND REPORTING

PART 1. GENERAL PROVISIONS

R 4.411

Source: 1981 AACS.

R 4.412

Source: 1981 AACS.

R 4.413

Source: 1981 AACS.

R 4.414

Source: 1981 AACS.

PART 2. LOBBYISTS AND LOBBYIST AGENTS

R 4.421

Source: 1981 AACS.

R 4.422

Source: 1981 AACS.

R 4.423

Source: 1981 AACS.

R 4.424

Source: 1981 AACS.

R 4.425

Source: 1981 AACS.

PART 3. RECORDS

R 4.431

Source: 1981 AACS.

Annual Administrative Code Supplement
1998 – 2000 Edition

R 4.432
Source: 1981 AACS.

R 4.433
Source: 1981 AACS.

PART 4. REGISTRATIONS

R 4.441
Source: 1981 AACS.

R 4.442
Source: 1981 AACS.

R 4.443
Source: 1981 AACS.

R 4.444
Source: 1981 AACS.

PART 5. STATEMENTS AND REPORTS

R 4.451
Source: 1981 AACS.

R 4.452
Source: 1981 AACS.

R 4.453
Source: 1981 AACS.

R 4.454
Source: 1981 AACS.

R 4.455
Source: 1981 AACS.

R 4.456
Source: 1981 AACS.

R 4.457
Source: 1981 AACS.

R 4.458
Source: 1981 AACS.

R 4.459
Source: 1981 AACS.

PART 6. INSPECTIONS, INVESTIGATIONS, AND SWORN COMPLAINTS

R 4.461
Source: 1981 AACS.

R 4.462
Source: 1981 AACS.

**Annual Administrative Code Supplement
1998 – 2000 Edition**

R 4.463

Source: 1981 AACS.

PART 7. GIFTS

R 4.471

Source: 1981 AACS.

R 4.472

Source: 1981 AACS.

R 4.473

Source: 1981 AACS.

**BUREAU OF DEPARTMENT SERVICES
ASSIGNED CLAIMS PLAN**

R 11.101

Source: 1989 AACS.

R 11.102

Source: 1989 AACS.

R 11.103

Source: 1989 AACS.

R 11.104

Source: 1989 AACS.

R 11.105

Source: 1989 AACS.

R 11.106

Source: 1989 AACS.

R 11.107

Source: 1989 AACS.

R 11.108

Source: 1989 AACS.

R 11.109

Source: 1989 AACS.

R 11.110

Source: 1989 AACS.

R 11.112

Source: 1989 AACS.

R 11.113

Source: 1989 AACS.

R 11.114

Source: 1989 AACS.

**Annual Administrative Code Supplement
1998 – 2000 Edition**

R 11.115

Source: 1989 AACS.

R 11.116

Source: 1989 AACS.

**EXECUTIVE OFFICE
BOARD OF ETHICS
PRACTICE AND PROCEDURE**

R 15.2

Source: 1985 AACS.

R 15.7

Source: 1985 AACS.

R 15.9

Source: 1985 AACS.

**DEPARTMENT OF MANAGEMENT AND BUDGET
PROPERTY MANAGEMENT DIVISION
CONDUCT ON STATE PROPERTY**

R 18.201

Source: 1982 AACS.

R 18.202

Source: 1982 AACS.

R 18.203

Source: 1982 AACS.

R 18.204

Source: 1982 AACS.

R 18.205

Source: 1982 AACS.

R 18.206

Source: 1982 AACS.

R 18.207

Source: 1982 AACS.

R 18.208

Source: 1982 AACS.

**BUILDING DIVISION
PUBLIC BUILDING ACCOMMODATIONS FOR PHYSICALLY HANDICAPPED PERSONS**

R 18.301—R 18.309

Source: 1997 AACS.

Annual Administrative Code Supplement
1998 – 2000 Edition

CRIME VICTIMS COMPENSATION BOARD
GENERAL RULES

R 18.351
Source: 1983 AACS.

R 18.352
Source: 1983 AACS.

R 18.353
Source: 1983 AACS.

R 18.354
Source: 1983 AACS.

R 18.355
Source: 1983 AACS.

R 18.356
Source: 1983 AACS.

R 18.357
Source: 1983 AACS.

R 18.358
Source: 1983 AACS.

R 18.359
Source: 1983 AACS.

R 18.360
Source: 1983 AACS.

R 18.361
Source: 1983 AACS.

R 18.362
Source: 1983 AACS.

R 18.363
Source: 1983 AACS.

R 18.364
Source: 1983 AACS.

R 18.365
Source: 1983 AACS.

R 18.366
Source: 1983 AACS.

R 18.367
Source: 1983 AACS.

Annual Administrative Code Supplement
1998 – 2000 Edition

PROPERTY MANAGEMENT DIVISION

PARKING ON STATE PROPERTY

R 18.401
Source: 1982 AACS.

R 18.402
Source: 1982 AACS.

R 18.403
Source: 1982 AACS.

R 18.404
Source: 1982 AACS.

R 18.405
Source: 1982 AACS.

R 18.406
Source: 1982 AACS.

R 18.407
Source: 1982 AACS.

R 18.408
Source: 1982 AACS.

R 18.409
Source: 1982 AACS.

R 18.410
Source: 1982 AACS.

R 18.411
Source: 1982 AACS.

R 18.412
Source: 1982 AACS.

R 18.413
Source: 1982 AACS.

R 18.414
Source: 1982 AACS.

R 18.415
Source: 1982 AACS.

R 18.416
Source: 1982 AACS.

R 18.417
Source: 1982 AACS.

R 18.418
Source: 1982 AACS.

**Annual Administrative Code Supplement
1998 – 2000 Edition**

- R 18.419**
Source: 1982 AACS.
- R 18.420**
Source: 1982 AACS.
- R 18.421**
Source: 1982 AACS.
- R 18.422**
Source: 1982 AACS.
- R 18.423**
Source: 1982 AACS.
- R 18.424**
Source: 1982 AACS.
- R 18.425**
Source: 1982 AACS.
- R 18.426**
Source: 1982 AACS.

**DEPARTMENT OF STATE POLICE
MICHIGAN JUSTICE TRAINING COMMISSION
GENERAL RULES**

- R 18.451**
Source: 1997 AACS.
- R 18.452**
Source: 1997 AACS.
- R 18.452a**
Source: 1997 AACS.
- R 18.453**
Source: 1997 AACS.
- R 18.454**
Source: 1997 AACS.
- R 18.455**
Source: 1997 AACS.
- R 18.455a**
Source: 1997 AACS.
- R 18.456**
Source: 1997 AACS.
- R 18.457**
Source: 1983 AACS.
- R 18.458**
Source: 1983 AACS.

Annual Administrative Code Supplement
1998 – 2000 Edition

R 18.459
Source: 1997 AACS.

R 18.460
Source: 1983 AACS.

R 18.461
Source: 1997 AACS.

R 18.462
Source: 1997 AACS.

DEPARTMENT OF MANAGEMENT AND BUDGET
PROPERTY MANAGEMENT DIVISION
REAL ESTATE SERVICES

R 18.501
Source: 1983 AACS.

R 18.502
Source: 1983 AACS.

R 18.503
Source: 1983 AACS.

R 18.504
Source: 1983 AACS.

R 18.505
Source: 1983 AACS.

R 18.506
Source: 1983 AACS.

R 18.507
Source: 1983 AACS.

R 18.508
Source: 1983 AACS.

R 18.509
Source: 1983 AACS.

LOCAL GOVERNMENT CLAIMS REVIEW BOARD
GENERAL RULES

PART 1. GENERAL PROVISIONS

R 21.101
Source: 1987 AACS.

R 21.102
Source: 1987 AACS.

**Annual Administrative Code Supplement
1998 – 2000 Edition**

R 21.103

Source: 1987 AACS.

PART 2. PROCEDURES FOR FILING CLAIMS

R 21.201

Source: 1987 AACS.

R 21.202

Source: 1987 AACS.

R 21.203

Source: 1987 AACS.

R 21.204

Source: 1987 AACS.

R 21.205

Source: 1987 AACS.

R 21.206

Source: 1987 AACS.

R 21.207

Source: 1987 AACS.

R 21.208

Source: 1987 AACS.

R 21.209

Source: 1987 AACS.

R 21.210

Source: 1987 AACS.

R 21.211

Source: 1987 AACS.

PART 3. HEARINGS PROCEDURES

R 21.301

Source: 1987 AACS.

R 21.302

Source: 1987 AACS.

R 21.303

Source: 1987 AACS.

R 21.304

Source: 1987 AACS.

R 21.305

Source: 1987 AACS.

R 21.306

Source: 1987 AACS.

Annual Administrative Code Supplement
1998 – 2000 Edition

R 21.307

Source: 1987 AACS.

R 21.308

Source: 1987 AACS.

R 21.309

Source: 1987 AACS.

R 21.310

Source: 1987 AACS.

PART 4. DECLARATORY RULINGS

R 21.401

Source: 1987 AACS.

DEPARTMENT OF STATE

BUREAU OF DEPARTMENT SERVICES

OPTICAL IMAGING SYSTEMS

R 24.401 Scope and purpose.

Rule 1. (1) These rules apply to imaging systems used to store and reproduce digital images of official public records of all state and local governmental entities in Michigan, including the official records of governmental officials, onto optical storage disks, under section 2 of Act No. 116 of the Public Acts of 1992, being §24.402 of the Michigan Compiled Laws.

(2) An imaging system stores information by recording a digital version of a scanned record onto an optical storage disk. An agency may reference the association of information and image management (AIIM) technical report entitled "The Use of Optical Disks for Public Records" (AIIM TR25), 1995, for information about optical disk systems. The technical report may be obtained from AIIM, 1100 Wayne Avenue, Suite 1100, Silver Spring, Maryland 20910-5699. Single copies are available at \$45.00.

(3) The purpose of these rules is to establish standards for the use of imaging technology and to ensure the continued accessibility and retrievability of information stored in imaging systems.

History: 1998 MR 11, Eff. Nov. 21, 1998.

R 24.402 Definitions.

Rule 2. (1) As used in these rules:

(a) "Agency" means a governmental entity of state or local government in Michigan or a governmental official of a state or local governmental entity acting in his or her official capacity.

(b) "Archival" means and pertains to records that have been appraised by the state archives to have permanent value to the state of Michigan and which may be scheduled for transfer to the state archives or to a designated archival depository.

(c) "Human-readable storage medium" means paper, a photograph, a photocopy, or a microform, including but not limited to microfilm, microfiche, computer output microfilm, and aperture cards.

(d) "Imaging system" means a system used to store information electronically by recording a digital reproduction of a scanned record onto an optical storage disk.

(e) "Off-site location" means a premises, building, or structure that is separate and apart from the premises, building, or structure that houses an agency's primary imaging system.

(f) "Public record" means a writing prepared, owned, used, in the possession of, or retained by a public body in the performance of an official function, from the time it was created.

(g) "Records management section" means the records management section of the records and forms management division, office of support services, department of management and budget, or its successor

Annual Administrative Code Supplement
1998 – 2000 Edition

agency.

(h) “Retention and disposal schedule” means a listing of all official records an agency receives, creates, or retains prescribing where and for how long the records will be retained and the medium that will be used for retention purposes, as required by section 285 of Act No. 431 of the Public Acts of 1984, being §18.1285 of the Michigan Compiled Laws, and section 5 of Act No. 271 of the Public Acts of 1913, being §399.5 of the Michigan Compiled Laws.

(i) “State archives” means the state archives of Michigan, Michigan historical center, department of state, or its successor agency. (2) Definitions of the technical terms used in these rules have the same meanings as defined in the AIIM technical report entitled “Glossary of Imaging Technology” (AIIM TR2), 1992. The technical report may be obtained from AIIM, 1100 Wayne Avenue, Suite 1100, Silver Springs, Maryland 20910-5699. Single copies are available at \$65.00.

History: 1998 MR 11, Eff. Nov. 21, 1998.

R 24.403 Needs analysis.

Rule 3. Before purchasing an imaging system governed by these rules, an agency shall analyze the recordkeeping tasks and goals to be performed by the system. The analysis shall identify the type and volume of records that would be stored on optical storage disks over a 5-year period. The analysis shall also determine the legal and archival requirements pertaining to the retention and use of these records and the ability of the system to meet the agency's needs.

History: 1998 MR 11, Eff. Nov. 21, 1998.

R 24.404 Sole storage medium; security copy; audit.

Rule 4. (1) An agency may use an imaging system as the sole storage medium for all public records, except for those identified on an approved retention and disposal schedule either as having a retention period of more than 10 years or as having archival value.

(2) An agency may use an imaging system as a storage medium for a record that is identified on a retention and disposal schedule as having a retention period of more than 10 years or as having archival value, if the agency also retains a security copy of the record on a human-readable storage medium and the security copy is maintained in an organized record keeping system and is listed on an approved retention and disposal schedule.

(3) If an agency creates a security copy under subrule (2) in the form of a microform, the security copy may not be produced from a digital image. A microform produced as a security copy shall comply with rules on microform standards, R 18.101 et seq. of the Michigan administrative code.

(4) The records management section and the state archives may conduct periodic audits of an agency's imaging system, if the system is the sole storage medium for records which have a useful life of more than 10 years or which have archival value. If the audit determines that an agency has not complied with these rules and if the agency fails to take corrective action within a reasonable time, then the records management section or the state archives may direct the agency to cease and desist from using the imaging system as the sole storage medium for the records subject to audit.

History: 1998 MR 11, Eff. Nov. 21, 1998.

R 24.405 Retention and disposition schedule.

Rule 5. (1) All digital image reproductions, indexes, and related records, including but not limited to input documents, systems documentation, human-readable copies, back-up disk copies, and indexes, shall be listed on an approved retention and disposal schedule before the imaging system is purchased. Records relating to any aspect of an imaging system may be disposed of only in accordance with an approved retention and disposal schedule.

(2) An agency shall develop a method of determining when a particular image has reached the end of its retention period and shall dispose of the image in accordance with the appropriate retention and disposal schedule. An imaging system shall provide a method for the complete expunction of each recorded image and the removal of the index identifier pertaining to each image from its optical disks. An agency may consult the AIIM technical report entitled “The Expungement of Information Recorded on Optical Write-Once-Read-Many (WORM) Systems” (AIIM TR28), 1991, for guidance about expunction procedures. The technical report

Annual Administrative Code Supplement
1998 – 2000 Edition

may be obtained from AIIM, 1100 Wayne Avenue, Suite 1100, Silver Springs, Maryland 20910-5699. Single copies are available at \$33.00. R 24.406 File format, compression, and encryption. Rule 6. (1) A digital image file format is a structured container for information about each digital image file and the image data. Information about the digital image file includes but is not limited to its name, width, length, resolution, and compression technique. A nonproprietary image file format shall be used to ensure an agency's ability to successfully transfer digital images between different hardware and software, or to upgrade or modify hardware or software. The imaging system shall use a nonproprietary digital image file format. However, if an agency has a need to use a proprietary file format, then the vendor shall provide a bridge to a nonproprietary digital image file format. An agency shall include and retain information about a bridge with the other system documentation.

(2) The American national standards institute (ANSI) and AIIM provide a standard open interchange format for image transmission. An agency using an imaging system shall comply with the provisions of the publication entitled "Standard Recommended Practice - File Format for Storage and Exchange of Images - Bi-Level Image File Format: Part I" (ANSI/AIIM MS53), 1993. The technical report may be obtained from AIIM, 1100 Wayne Avenue, Suite 1100, Silver Springs, Maryland 20910-5699. Single copies are available at \$52.00. An agency shall retain comprehensive information about the digital image file format used by the imaging system.

(3) The large file sizes of typical scanned documents require digital image compression to support data transmission and to promote storage efficiency. The imaging system shall use the international telecommunications union (ITU), formerly the consultative committee on international telegraphy and telephony (CCITT), group 3 and group 4 compression techniques or shall have the vendor provide a bridge to the techniques with comprehensive documentation about the compression. Regardless of which compression standard is used, it shall be a lossless version.

(4) An agency shall not use an imaging system that utilizes an encrypted software source code.

History: 1998 MR 11, Eff. Nov. 21, 1998.

R 24.407 Migration strategy.

Rule 7. (1) An agency shall ensure access to images of records which are stored on optical disks during the entire length of the record retention period. An agency shall establish a migration strategy for images retained on optical storage disks. The migration strategy shall do at least 1 of the following tasks:

(a) Upgrade equipment as technology evolves and recopy the information and records on the optical storage disk, as required.

(b) Based upon the projected longevity of an optical storage disk, recopy the information on new optical storage disks a minimum of once every 7 years.

(c) Transfer data from an obsolete generation of optical storage disk technology to a newly emerging generation of technology, in some cases bypassing the generation of technology that is mature but at risk of becoming obsolete.

(2) A new generation of imaging technology and optical storage disk technology shall be backward compatible with older generations of technology. In this regard, an agency shall do both of the following:

(a) Require that a new system or system upgrades provide backward compatibility to the existing system or require vendors to guarantee conversion of 100% of the extant image and index data to the new system, if the system cannot provide hardware and software compatibility.

(b) Ensure that all information that is required for retention at the time of conversion remains accessible through migration to the new system.

(3) An agency shall ensure that comprehensive information about the migration of images is retained in the system documentation.

History: 1998 MR 11, Eff. Nov. 21, 1998.

Annual Administrative Code Supplement
1998 – 2000 Edition

R 24.408 Indexing and image retrieval.

Rule 8. (1) An agency using an imaging system shall index each image stored by the system with a specific or unique identifier. The index shall contain information sufficient to enable the agency to retrieve images and records in an efficient and effective manner. The index shall have the same retention period as the information and shall be migrated at the same time as the information. The index shall comply with the ANSI/AIIM publication entitled "Standard Recommended Practice for the Identification and Indexing of Page Components (Zones) for Automated Processing in an Electronic Image Management (EIM) Environment" (ANSI/AIIM MS55), 1994). The technical report may be obtained from AIIM, 1100 Wayne Avenue, Suite 1100, Silver Springs, Maryland 20910-5699. Single copies are available at \$52.00.

(2) An agency shall prepare and maintain a written description of its method for indexing images.

(3) An agency shall implement procedures for verifying the accuracy of index entries. Verification may be accomplished visually, by duplicative typing of index data, or by any other method that accomplishes positive index data verification. An agency shall test its indexing verification method to ensure that the index permits the retrieval of images in an efficient and effective manner.

(4) All index information relating to stored images shall be retained on magnetic or optical media that are designed to function with the imaging system. An agency may retain index data on the same medium where recorded images are stored, if the agency also retains a separate copy of the index.

(5) If an agency replaces an optical storage disk, then the agency shall convert the index for the images onto a new medium. The new medium shall be capable of reading and fully converting all information stored on the replaced disk.

History: 1998 MR 11, Eff. Nov. 21, 1998.

R 24.409 Error detection and correction.

Rule 9. (1) Error detection and correction is the ability to predict the point at which an optical storage disk is no longer readable. This ability is critical if the recopying of disks is to take place at the appropriate time.

(2) An agency shall specify that the small computer standard interface (SCSI) command "Write and Verify" is used when writing data to optical storage disks.

(3) An agency shall acquire a utility program that monitors the amount of disk space used to relocate data sectors when errors are detected.

(4) An agency shall ensure, through systems operations procedures, that current readability is maintained by periodic copying when the relocation table reaches 70% of capacity.

History: 1998 MR 11, Eff. Nov. 21, 1998.

R 24.410 Optical storage disk standards.

Rule 10. (1) An optical storage disk is the only information storage medium approved for retention of digital images under these rules.

(2) An agency shall only use nonerasable write-once-read-many (WORM) disks. Disk drives and multifunction disk drives capable of recording on WORM disks or rewriteable disks may be used. However, only disks manufactured exclusively as WORM shall be used.

(3) If an agency stores its digital images on CD-ROMs, the agency shall ensure that the disks comply with the international standard organization (ISO) standard entitled "Volume and File Structure of CD-ROM for Information Exchange" (ANSI/NISO/ISO 9660), 1990. The standard may be obtained from the National Information Standards Organization, P.O. Box 1056, Bethesda, Maryland 20827. Single copies are available at \$98.00.

(4) An agency shall not use disk media to record image data more than 5 years after the date of disk manufacture.

History: 1998 MR 11, Eff. Nov. 21, 1998.

Annual Administrative Code Supplement
1998 – 2000 Edition

R 24.411 Disk labels.

Rule 11. An optical storage disk shall be kept in a protective cartridge. A disk cartridge shall have an eye-readable label containing all of the following information:

- (a) The name of the agency or the unit within the agency that is responsible for the records on the disk.
- (b) A sequential number or other identifier that identifies the disk in the series of disks used by the system.
- (c) The date of disk manufacture.
- (d) Identification of the disk as the master or a backup storage copy.
- (e) The records series title and item number from the retention and disposal schedule, and the creation dates of the records.
- (f) The beginning and ending dates during which images were recorded onto the disk.
- (g) The software needed to access the digital images or index stored on the disk.

History: 1998 MR 11, Eff. Nov. 21, 1998.

R 24.412 Environmental conditions for optical storage disks.

Rule 12. (1) The disk manufacturer's recommendations for the storage and use of optical disks shall serve as a guide for storing and using an agency's disks.

(2) An agency shall provide a stable storage and use environment for optical disks. The relative humidity of a storage area for optical storage disks shall not exceed 50%, and the ambient room temperature shall not be greater than 75 degrees Fahrenheit.

(3) Condensation shall be avoided on all disk media.

(4) An optical disk is affected by dust, debris, and fingerprints. An agency shall not remove the plastic cartridge protecting a disk. A cartridge shutter shall not be opened to expose the optical disk's recording surface.

(5) An agency shall not store disk media in any of the following ways:

- (a) Under other objects.
- (b) In a place that could readily permit water damage to occur.
- (c) In a manner or place that is likely to subject the disks to physical shocks, shattering due to rapid temperature change, or damage due to exposure to direct sunlight or other light sources, or sources of heat, oil, or solvents.

History: 1998 MR 11, Eff. Nov. 21, 1998.

R 24.413 Backup storage disks.

Rule 13. (1) An agency shall periodically prepare backup storage copies of recorded disks and shall store the backup disks at a secure, environmentally controlled, off-site location.

(2) An agency shall store its backup storage disks and backup index media together.

(3) An agency shall update its backup storage disks and index media on a regular basis.

(4) An agency shall copy or migrate, or copy and migrate, its backup storage disks and original image disks at the same time.

History: 1998 MR 11, Eff. Nov. 21, 1998.

R 24.414 Scanning and testing for quality.

Rule 14. (1) An agency shall ensure that the scanner for each imaging system functions properly and is adjusted accurately.

(2) An agency shall establish scanning quality control procedures and shall periodically document the use of those procedures. The documentation shall have the same retention period as the information.

(3) When scanning input records, an agency shall comply with the ANSI/AIIM standards in the publications entitled "Standard Recommended Practice for Quality Control of Image Scanners," (ANSI/AIIM MS44), 1993, and "Recommended Practice for the Requirements and Characteristics of Documents Intended for Optical Scanning," (ANSI/AIIM MS52), 1991. The technical reports may be obtained from AIIM, 1100 Wayne Avenue, Suite 1100, Silver Springs, Maryland 20910-5699. Single copies are available at \$39.00.

(4) An agency shall test and certify scanner performance as a routine part of a regularly established schedule of maintenance for operating an imaging system.

History: 1998 MR 11, Eff. Nov. 21, 1998.

Annual Administrative Code Supplement
1998 – 2000 Edition

R 24.415 Image resolution.

Rule 15. (1) The resolution of scanned images shall be sufficient to permit the recording of an accurate image of the record. An agency shall use the AIIM technical report entitled "Resolution as it Relates to Photographic and Electronic Imaging," (AIIM TR26), 1993, as a guide for establishing resolution criteria. The technical report may be obtained from AIIM, 1100 Wayne Avenue, Suite 1100, Silver Springs, Maryland 20910-5699. Single copies are available at \$45.00.

(2) Standard letter quality records shall be scanned at not less than 200 pixels per inch. Photographs and other higher quality or more detailed records shall be scanned at not less than 400 pixels per inch. Engineering drawings shall be scanned at not less than 200 pixels per inch.

(3) If an imaging system employs optical character recognition capability, then scanning resolution shall be not less than 300 pixels per inch.

History: 1998 MR 11, Eff. Nov. 21, 1998.

R 24.416 Authentication.

Rule 16. An agency shall ensure that system software is designed to track usage of the imaging system and access to the system. The software will authenticate that records were created, edited, and deleted according to documented procedures, will attempt to prevent or indicate the occurrence of unauthorized access to sensitive records, and will maintain this information in chronological order. Legal retention periods for authenticating information shall be included in retention and disposal schedules.

History: 1998 MR 11, Eff. Nov. 21, 1998.

R 24.417 System administrator and system documentation.

Rule 17. (1) An agency shall identify a person to act as a system administrator to monitor the installation and operation of the imaging system and the training of assigned personnel. (2) The system administrator shall maintain documentation pertaining to the imaging system, including its optical storage disks. In addition to maintaining any other document required by these rules, the system administrator shall maintain all of the following documents:

(a) A description of the imaging system's and the optical disk's hardware, including all of the following information:

- (i) Equipment specifications.
- (ii) The names and addresses of manufacturers.
- (iii) Equipment model numbers.
- (iv) Equipment maintenance requirements.
- (v) Technical operating manuals.

(b) Records reflecting the results of the performance appraisal and reliability testing performed at the time of system installation.

(c) A procedures manual and flowchart indicating the normal routine of the agency and the role that the imaging system assumes in normal activities. The documentation shall describe the procedures to be followed for all of the following:

- (i) Document preparation.
- (ii) Document scanning.
- (iii) Scanner testing.
- (iv) Method of indexing.
- (v) Verification of index data.
- (vi) Image editing.
- (vii) Image enhancing.
- (viii) Image and index updating.
- (ix) Image and index deleting.

(d) A written procedure governing the regular removal of images from the system when the images have reached the end of their administrative, fiscal, or legal usefulness.

(e) A procedure to provide for total expunction of images from the disk and the removal of index entries.

(f) A description of all software programs and updates, including compression algorithms and file formats.

Annual Administrative Code Supplement
1998 – 2000 Edition

- (g) A description of the hardware and software used for the detection and correction of error codes, including the placement of error correcting codes and a description and the orientation of preformatted blocks on a disk.
 - (h) A description of file layouts and content, including all of the following information:
 - (i) The location of files on the optical storage disk.
 - (ii) How the files are laid out.
 - (iii) What the information in the file directory means.
 - (iv) The formats used to encode the contents of files.
 - (i) A plan to enable the optical storage disks recorded by the system to be read by another brand or type of system if the system hardware or software fails or otherwise becomes permanently inoperable.
 - (j) A description of security procedures.
 - (k) A plan to provide for major upgrades of hardware and software to avoid obsolescence or the loss of recorded information.
 - (l) A contingency plan to allow the agency to continue functioning during temporary system downtime, which shall also be included in the procedures manual.
 - (3) The system administrator shall arrange to have the agency's retention and disposal schedule amended to include the imaging of records, the retention of the human-readable copies, and the storage of back-up copies, and shall ensure that the new schedule is approved, before the system is purchased.
- History: 1998 MR 11, Eff. Nov. 21, 1998.

R 24.418 Safeguard plan, vendor codes escrow, and notice from vendor.

Rule 18. (1) Before acquiring an imaging system, an agency shall prepare a written plan that includes safeguards to ensure the agency's continued ability to access and retrieve image data if the agency's vendor no longer supports the system hardware or software or if the system becomes inoperable due to damage, malfunction, or obsolescence. (2) By contract, an agency shall require its imaging system vendor to do both of the following:

- (a) Deposit a copy of the imaging system's application software codes and associated documentation in an escrow account with a bank, archives, or other acceptable institution, for transmission to the agency if the vendor's business fails.
- (b) Notify the system administrator about the cessation of the imaging system or its product line, changes or upgrades to the imaging system, or the cessation of service support for the imaging system.

History: 1998 MR 11, Eff. Nov. 21, 1998.

R 24.419 Annual system review.

Rule 19. An agency shall review its imaging system on an annual basis. The review shall verify all of the following:

- (a) The statistical error rate and any loss of recorded information.
- (b) That satisfactory scanner performance and reliability are being maintained by comparing currently scanned and recreated hard copy images of test targets with original benchmark target images.
- (c) That the scanner testing logbook is being properly maintained and that all necessary procedures are being followed and documented.
- (d) That all required targets are being scanned on a routine basis.
- (e) That backup storage copies of images and indexes are routinely produced on separate disks and stored at an off-site location.
- (f) That human-readable copies of records are created, managed, and stored as required by these rules.
- (g) From the master disks in use and the backup storage disks that are stored at the off-site location, that the images being stored on the image disks have not deteriorated.
- (h) That security measures have been developed and are being utilized.
- (i) That comprehensive documentation about appropriate aspects of the imaging system have been created and retained.

History: 1998 MR 11, Eff. Nov. 21, 1998.

**Annual Administrative Code Supplement
1998 – 2000 Edition**

**DEPARTMENT OF STATE POLICE
STATE FIRE SAFETY BOARD**

INSTALLATION AND CONSTRUCTION OF TUBULAR AND SPIRAL SLIDE FIRE ESCAPES

R 28.51—R 28.73

Source: 1997 AACS.

PLACES OF PUBLIC ASSEMBLAGE

R 28.101 Rescinded.

History: 1944 AC; 1954 AC; 1979 AC; rescinded 1999 MR 12, Eff. Dec. 21, 1999.

R 28.102 Rescinded.

History: 1944 AC; 1954 AC; 1979 AC; rescinded 1999 MR 12, Eff. Dec. 21, 1999.

R 28.103

Source: 1997 AACS.

R 28.104 Rescinded.

History: 1944 AC; 1954 AC; 1979 AC; rescinded 1999 MR 12, Eff. Dec. 21, 1999.

R 28.105 Rescinded.

History: 1944 AC; 1954 AC; 1979 AC; rescinded 1999 MR 12, Eff. Dec. 21, 1999.

R 28.106 Rescinded.

History: 1944 AC; 1954 AC; 1979 AC; rescinded 1999 MR 12, Eff. Dec. 21, 1999.

R 28.107—R 28.112

Source: 1997 AACS.

STORAGE AND HANDLING OF EXPLOSIVES

R 28.131, R 28.132

Source: 1997 AACS.

R 28.135

Source: 1997 AACS.

R 28.138—R 28.200

Source: 1997 AACS.

FIRE MARSHAL DIVISION

FLAMMABLE LIQUIDS

R 28.601—R 28.740

Source: 1997 AACS.

Annual Administrative Code Supplement
1998 – 2000 Edition

DEPARTMENT OF STATE POLICE

TRAFFIC SERVICES SECTION

SAFETY BELTS AND RESTRAINING DEVICES

R 28.901 Rescinded.

History: 1954 ACS 12, Eff. Nov. 21, 1957; 1979 AC; rescinded 1999 MR 5, Eff. Jun. 8, 1999.

R 28.902 Rescinded.

History: 1954 ACS 12, Eff. Nov. 21, 1957; 1979 AC; rescinded 1999 MR 5, Eff. Jun. 8, 1999.

R 28.903 Rescinded.

History: 1954 ACS 12, Eff. Nov. 21, 1957; 1979 AC; rescinded 1999 MR 5, Eff. Jun. 8, 1999.

R 28.904 Rescinded.

History: 1954 ACS 12, Eff. Nov. 21, 1957; 1979 AC; rescinded 1999 MR 5, Eff. Jun. 8, 1999.

R 28.905 Rescinded.

History: 1954 ACS 12, Eff. Nov. 21, 1957; 1979 AC; rescinded 1999 MR 5, Eff. Jun. 8, 1999.

R 28.906 Rescinded.

History: 1954 ACS 12, Eff. Nov. 21, 1957; 1979 AC; rescinded 1999 MR 5, Eff. Jun. 8, 1999.

R 28.907 Rescinded.

History: 1954 ACS 12, Eff. Nov. 21, 1957; 1979 AC; rescinded 1999 MR 5, Eff. Jun. 8, 1999.

R 28.911 Adoption of federal standards.

Rule 1. The provisions of 49 C.F.R. SS571.209 and 571.210 are adopted in these rules by reference for safety belts and restraining devices. Copies of the provisions may be inspected at the offices of the special operations division, traffic services section, department of state police. Copies may be obtained at a cost as of adoption of these rules of \$5.00 for the first page and \$1.00 for each page thereafter from the Department of State Police, 714 S. Harrison Rd. E. Lansing, Michigan 48823, of from the Superintendent of Documents, Government Printing Office, Washington, DC 20402, (telephone 202-512-1800), at a cost as of the time of adoption of these rules of \$49.00.

History: 1999 MR 5, Eff. Jun. 8, 1999.

R. 28.912 Rescission.

Rule 2. R 28.901 to R 28.907 of the Michigan Administrative Code, appearing on pages 136 to 139 of the 1979 Michigan Administrative Code, are rescinded.

History: 1999 MR 5, Eff. Jun. 8, 1999.

DEPARTMENT OF STATE POLICE

TRAFFIC SERVICES SECTION

MOTORCYCLE HELMETS

R 28.951 Approved Equipment

Rule 1. Motorcycle helmets shall meet the model specifications established by the United States Department of Transportation, National Highway Safety Administration. These specifications, located at and identified as "Motorcycle Helmets", 49 C.F.R. § 571.218, published April 15, 1988 in the Federal Register (53 FR 12529), effective October 3, 1988, are adopted in these rules by reference. Printed copies of 49 C.F.R.

Annual Administrative Code Supplement
1998 – 2000 Edition

§ 571.218 are available for inspection and for distribution to the public at cost at the offices of the Michigan Department of State Police, Special Operations Division, Traffic Services Section, 714 S. Harrison Road, East Lansing, Michigan 48823. Printed copies of Chapter 49, Transportation, Pts. 400-999, containing 49 C.F.R. § 571.218, are also available from the United States Government Printing Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh, Pa 15250-7954, at a cost of \$57.00 at the time of the adoption of this rule.

Editor's Note: Pursuant to Section 56 of 1969 PA 306, as amended, being Section 24.256 of the Michigan Compiled Laws, an obvious error in this rule has been corrected at the request of the promulgating agency. The rule as published in the Michigan Register and filed with the Office of the Great Seal omitted the word "Traffic" in the title of the National Highway Traffic Safety Administration.

History: 1979 ACS 8, Eff. Dec. 2, 1981; 2000 MR 10, Eff. Jul. 27, 2000.

R 28.952 Rescinded.

History: 1979 ACS 8, Eff. Dec. 2, 1981; Rescinded 2000 MR 10, Eff. Jul. 27, 2000.

R 28.953 Rescinded.

History: 1979 ACS 8, Eff. Dec. 2, 1981; Rescinded 2000 MR 10, Eff. Jul. 27, 2000.

R 28.954 Rescinded.

History: 1979 ACS 8, Eff. Dec. 2, 1981; Rescinded 2000 MR 10, Eff. Jul. 27, 2000.

R 28.955 Rescinded.

History: 1979 ACS 8, Eff. Dec. 2, 1981; Rescinded 2000 MR 10, Eff. Jul. 27, 2000.

R 28.956 Rescinded.

History: 1979 ACS 8, Eff. Dec. 2, 1981; Rescinded 2000 MR 10, Eff. Jul. 27, 2000.

R 28.957 Rescinded.

History: 1979 ACS 8, Eff. Dec. 2, 1981; Rescinded 2000 MR 10, Eff. Jul. 27, 2000.

R 28.958 Rescinded.

History: 1979 ACS 8, Eff. Dec. 2, 1981; Rescinded 2000 MR 10, Eff. Jul. 27, 2000.

R 28.959 Rescinded.

History: 1979 ACS 8, Eff. Dec. 2, 1981; Rescinded 2000 MR 10, Eff. Jul. 27, 2000.

R 28.960 Rescinded.

History: 1979 ACS 8, Eff. Dec. 2, 1981; Rescinded 2000 MR 10, Eff. Jul. 27, 2000.

R 28.961 Rescinded.

History: 1979 ACS 8, Eff. Dec. 2, 1981; Rescinded 2000 MR 10, Eff. Jul. 27, 2000.

UNIFORM TRAFFIC CODE FOR CITIES, TOWNSHIPS, AND VILLAGES

CHAPTER 1. WORDS AND PHRASES DEFINED

R 28.1001

Source: 1981 AACS.

R 28.1002—R 28.1004

Source: 1997 AACS.

Annual Administrative Code Supplement
1998 – 2000 Edition

CHAPTER 2. TRAFFIC ADMINISTRATION AND AUTHORITY

R 28.1101

Source: 1981 AACS.

R 28.1102

Source: 1981 AACS.

R 28.1103

Source: 1981 AACS.

R 28.1104

Source: 1981 AACS.

R 28.1105

Source: 1981 AACS.

R 28.1105a

Source: 1981 AACS.

R 28.1106

Source: 1981 AACS.

R 28.1107

Source: 1981 AACS.

R 28.1108

Source: 1981 AACS.

R 28.1109

Source: 1981 AACS.

R 28.1110

Source: 1981 AACS.

R 28.1110a

Source: 1981 AACS.

R 28.1110b

Source: 1981 AACS.

R 28.1110c

Source: 1981 AACS.

R 28.1110d

Source: 1981 AACS.

R 28.1110e

Source: 1981 AACS.

R 28.1110f

Source: 1981 AACS.

R 28.1110g

Source: 1981 AACS.

R 28.1110h

Source: 1981 AACS.

Annual Administrative Code Supplement
1998 – 2000 Edition

R 28.1110i
Source: 1981 AACS.

R 28.1111
Source: 1997 AACS.

R 28.1112
Source: 1981 AACS.

R 28.1113
Source: 1981 AACS.

R 28.1114
Source: 1981 AACS.

R 28.1115
Source: 1981 AACS.

R 28.1116
Source: 1981 AACS.

R 28.1117
Source: 1981 AACS.

R 28.1117a
Source: 1981 AACS.

R 28.1117b
Source: 1981 AACS.

R 28.1117c
Source: 1981 AACS.

R 28.1117d
Source: 1981 AACS.

R 28.1118
Source: 1981 AACS.

R 28.1120
Source: 1981 AACS.

R 28.1121
Source: 1981 AACS.

R 28.1122
Source: 1981 AACS.

R 28.1123
Source: 1981 AACS.

R 28.1124
Source: 1981 AACS.

R 28.1125
Source: 1981 AACS.

R 28.1126
Source: 1981 AACS.

Annual Administrative Code Supplement
1998 – 2000 Edition

R 28.1127
Source: 1981 AACS.

R 28.1128
Source: 1981 AACS.

R 28.1129
Source: 1981 AACS.

R 28.1130
Source: 1981 AACS.

R 28.1130a
Source: 1981 AACS.

R 28.1132
Source: 1981 AACS.

R 28.1133
Source: 1981 AACS.

R 28.1134
Source: 1981 AACS.

R 28.1135
Source: 1981 AACS.

R 28.1136
Source: 1981 AACS.

R 28.1136a
Source: 1981 AACS.

R 28.1136b
Source: 1981 AACS.

R 28.1137
Source: 1981 AACS.

R 28.1138
Source: 1981 AACS.

R 28.1139
Source: 1981 AACS.

R 28.1140
Source: 1981 AACS.

R 28.1141
Source: 1981 AACS.

R 28.1142
Source: 1981 AACS.

R 28.1143
Source: 1981 AACS.

R 28.1144
Source: 1981 AACS.

Annual Administrative Code Supplement
1998 – 2000 Edition

R 28.1145
Source: 1981 AACS.

R 28.1146
Source: 1981 AACS.

R 28.1147
Source: 1981 AACS.

R 28.1148
Source: 1981 AACS.

R 28.1149
Source: 1981 AACS.

R 28.1150
Source: 1981 AACS.

R 28.1151
Source: 1981 AACS.

R 28.1152
Source: 1981 AACS.

R 28.1153
Source: 1981 AACS.

R 28.1154
Source: 1981 AACS.

R 28.1155
Source: 1981 AACS.

R 28.1156
Source: 1981 AACS.

R 28.1157
Source: 1981 AACS.

CHAPTER 3. OBEDIENCE TO TRAFFIC REGULATIONS

R 28.1201
Source: 1981 AACS.

R 28.1202
Source: 1981 AACS.

R 28.1202a
Source: 1981 AACS.

R 28.1203
Source: 1981 AACS.

R 28.1204
Source: 1981 AACS.

R 28.1205
Source: 1981 AACS.

Annual Administrative Code Supplement
1998 – 2000 Edition

R 28.1206
Source: 1981 AACS.

R 28.1207
Source: 1981 AACS.

R 28.1208
Source: 1981 AACS.

R 28.1209
Source: 1981 AACS.

R 28.1210
Source: 1981 AACS.

R 28.1211
Source: 1981 AACS.

CHAPTER 4. TRAFFIC-CONTROL DEVICES

R 28.1301
Source: 1981 AACS.

R 28.1302
Source: 1981 AACS.

R 28.1303
Source: 1981 AACS.

R 28.1304
Source: 1981 AACS.

R 28.1304a
Source: 1981 AACS.

R 28.1305
Source: 1981 AACS.

R 28.1306
Source: 1981 AACS.

R 28.1307
Source: 1981 AACS.

R 28.1308
Source: 1981 AACS.

R 28.1309
Source: 1981 AACS.

R 28.1310
Source: 1981 AACS.

R 28.1311
Source: 1981 AACS.

R 28.1312
Source: 1981 AACS.

Annual Administrative Code Supplement
1998 – 2000 Edition

R 28.1313
Source: 1981 AACS.

R 28.1314
Source: 1981 AACS.

R 28.1315
Source: 1981 AACS.

R 28.1316
Source: 1981 AACS.

R 28.1317
Source: 1981 AACS.

R 28.1318
Source: 1981 AACS.

R 28.1319
Source: 1981 AACS.

R 28.1320
Source: 1981 AACS.

R 28.1321
Source: 1981 AACS.

R 28.1322
Source: 1981 AACS.

CHAPTER 5. RIGHTS AND DUTIES OF DRIVERS AND OTHERS

R 28.1401
Source: 1981 AACS.

R 28.1402
Source: 1981 AACS.

R 28.1403
Source: 1981 AACS.

R 28.1404
Source: 1981 AACS.

R 28.1404a
Source: 1981 AACS.

R 28.1405
Source: 1981 AACS.

R 28.1406
Source: 1981 AACS.

R 28.1407
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R 28.1408
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Annual Administrative Code Supplement
1998 – 2000 Edition

R 28.1409
Source: 1981 AACS.

R 28.1409a
Source: 1981 AACS.

R 28.1410
Source: 1981 AACS.

R 28.1411
Source: 1981 AACS.

R 28.1412
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R 28.1413
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R 28.1414
Source: 1981 AACS.

R 28.1414a
Source: 1981 AACS.

R 28.1414b
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R 28.1415
Source: 1981 AACS.

R 28.1415a
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R 28.1415b
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R 28.1415c
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R 28.1415d
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R 28.1415e
Source: 1981 AACS.

R 28.1415f
Source: 1981 AACS.

R 28.1415g
Source: 1981 AACS.

R 28.1416
Source: 1997 AACS.

R 28.1416b
Source: 1981 AACS.

R 28.1416c
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Annual Administrative Code Supplement
1998 – 2000 Edition

R 28.1417
Source: 1981 AACS.

R 28.1418
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R 28.1419
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Annual Administrative Code Supplement
1998 – 2000 Edition

R 28.1436
Source: 1981 AACS.

R 28.1436a
Source: 1981 AACS.

R 28.1437
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R 28.1438
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R 28.1439
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R 28.1440
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R 28.1440a
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R 28.1440b
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R 28.1440c
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R 28.1450
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R 28.1452
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Annual Administrative Code Supplement
1998 – 2000 Edition

R 28.1453
Source: 1981 AACS.

R 28.1454
Source: 1981 AACS.

R 28.1455
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R 28.1455a
Source: 1981 AACS.

R 28.1455b
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R 28.1456
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R 28.1461
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R 28.1462
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R 28.1462a
Source: 1981 AACS.

R 28.1463
Source: 1981 AACS.

R 28.1463a
Source: 1981 AACS.

R 28.1464
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R 28.1466
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R 28.1467
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R 28.1468
Source: 1981 AACS.

Annual Administrative Code Supplement
1998 – 2000 Edition

R 28.1469
Source: 1981 AACS.

R 28.1470
Source: 1981 AACS.

R 28.1470a
Source: 1981 AACS.

R 28.1471
Source: 1981 AACS.

R 28.1471a
Source: 1981 AACS.

R 28.1472
Source: 1981 AACS.

R 28.1473
Source: 1981 AACS.

R 28.1473a
Source: 1981 AACS.

R 28.1474
Source: 1981 AACS.

R 28.1475
Source: 1997 AACS.

R 28.1476
Source: 1981 AACS.

R 28.1477
Source: 1981 AACS.

R 28.1477a
Source: 1997 AACS.

R 28.1478
Source: 1981 AACS.

R 28.1478a
Source: 1981 AACS.

R 28.1479
Source: 1981 AACS.

R 28.1480
Source: 1981 AACS.

R 28.1480a
Source: 1981 AACS.

R 28.1481
Source: 1981 AACS.

R 28.1482—R 28.1484
Source: 1997 AACS.

Annual Administrative Code Supplement
1998 – 2000 Edition

R 28.1485
Source: 1981 AACS.

R 28.1486, R 28.1486a
Source: 1997 AACS.

R 28.1487
Source: 1981 AACS.

R 28.1487a
Source: 1981 AACS.

R 28.1488
Source: 1981 AACS.

R 28.1489
Source: 1981 AACS.

R 28.1490
Source: 1981 AACS.

R 28.1490a
Source: 1981 AACS.

R 28.1491
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R 28.1492
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R 28.1496
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R 28.1497
Source: 1981 AACS.

R 28.1498
Source: 1981 AACS.

R 28.1498a
Source: 1981 AACS.

R 28.1499
Source: 1981 AACS.

CHAPTER 6. OPERATION OF BICYCLES, MOTORCYCLES, MOPEDS, AND TOY VEHICLES

R 28.1601
Source: 1981 AACS.

Annual Administrative Code Supplement
1998 – 2000 Edition

R 28.1602
Source: 1981 AACS.

R 28.1603
Source: 1981 AACS.

R 28.1604
Source: 1981 AACS.

R 28.1604a
Source: 1981 AACS.

R 28.1605
Source: 1981 AACS.

R 28.1606
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R 28.1615
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R 28.1616
Source: 1981 AACS.

R 28.1617
Source: 1981 AACS.

R 28.1617a
Source: 1981 AACS.

R 28.1618
Source: 1981 AACS.

R 28.1619
Source: 1981 AACS.

Annual Administrative Code Supplement
1998 – 2000 Edition

- R 28.1620**
Source: 1981 AACS.
- R 28.1621**
Source: 1981 AACS.
- R 28.1622**
Source: 1981 AACS.
- R 28.1623**
Source: 1981 AACS.
- R 28.1623a**
Source: 1981 AACS.
- R 28.1624**
Source: 1981 AACS.
- R 28.1625**
Source: 1981 AACS.
- R 28.1626**
Source: 1981 AACS.
- R 28.1627**
Source: 1997 AACS.

CHAPTER 7. PEDESTRIANS' RIGHTS AND DUTIES

- R 28.1701**
Source: 1981 AACS.
- R 28.1702**
Source: 1981 AACS.
- R 28.1703**
Source: 1981 AACS.
- R 28.1703a**
Source: 1981 AACS.
- R 28.1705**
Source: 1981 AACS.
- R 28.1706**
Source: 1981 AACS.
- R 28.1707**
Source: 1981 AACS.
- R 28.1708**
Source: 1981 AACS.
- R 28.1709**
Source: 1981 AACS.
- R 28.1710**
Source: 1981 AACS.

Annual Administrative Code Supplement
1998 – 2000 Edition

R 28.1711
Source: 1981 AACS.

R 28.1712
Source: 1981 AACS.

R 28.1713
Source: 1981 AACS.

R 28.1714
Source: 1981 AACS.

R 28.1715
Source: 1981 AACS.

R 28.1716
Source: 1981 AACS.

CHAPTER 8. STOPPING, STANDING, AND PARKING

R 28.1801
Source: 1981 AACS.

R 28.1802
Source: 1981 AACS.

R 28.1803
Source: 1981 AACS.

R 28.1804
Source: 1981 AACS.

R 28.1805
Source: 1981 AACS.

R 28.1806
Source: 1981 AACS.

R 28.1807
Source: 1981 AACS.

R 28.1808
Source: 1981 AACS.

R 28.1809
Source: 1981 AACS.

R 28.1810
Source: 1981 AACS.

R 28.1811
Source: 1981 AACS.

R 28.1812
Source: 1981 AACS.

R 28.1813
Source: 1981 AACS.

Annual Administrative Code Supplement
1998 – 2000 Edition

R 28.1814
Source: 1981 AACS.

R 28.1815
Source: 1981 AACS.

R 28.1816
Source: 1981 AACS.

R 28.1817
Source: 1981 AACS.

R 28.1818
Source: 1981 AACS.

R 28.1819
Source: 1981 AACS.

R 28.1820
Source: 1981 AACS.

R 28.1821
Source: 1981 AACS.

R 28.1822
Source: 1981 AACS.

R 28.1823
Source: 1981 AACS.

R 28.1823a
Source: 1981 AACS.

R 28.1823b
Source: 1981 AACS.

R 28.1824
Source: 1981 AACS.

CHAPTER 9. MISCELLANEOUS

R 28.1901
Source: 1981 AACS.

R 28.1902
Source: 1981 AACS.

R 28.1903
Source: 1981 AACS.

R 28.1904
Source: 1981 AACS.

R 28.1905
Source: 1981 AACS.

**Annual Administrative Code Supplement
1998 – 2000 Edition**

CHAPTER 10. SNOWMOBILES

R 28.2001

Source: 1981 AACS.

R 28.2011

Source: 1981 AACS.

R 28.2021

Source: 1981 AACS.

R 28.2022

Source: 1981 AACS.

R 28.2023

Source: 1981 AACS.

R 28.2034

Source: 1981 AACS.

R 28.2039

Source: 1981 AACS.

R 28.2041

Source: 1981 AACS.

R 28.2051

Source: 1981 AACS.

R 28.2060

Source: 1981 AACS.

R 28.2061

Source: 1981 AACS.

R 28.2071

Source: 1981 AACS.

R 28.2073

Source: 1981 AACS.

R 28.2074

Source: 1981 AACS.

R 28.2075

Source: 1981 AACS.

**FIRE MARSHAL DIVISION
LIQUEFIED PETROLEUM GASES**

R 28.3801—R 28.3818

Source: 1997 AACS.

**Annual Administrative Code Supplement
1998 – 2000 Edition**

**INVESTIGATIVE SERVICES DIVISION
PRIVATE SECURITY GUARDS**

R 28.4001
Source: 1992 AACS.

**LAW ENFORCEMENT OFFICERS TRAINING COUNCIL
SELECTION AND EMPLOYMENT STANDARDS**

R 28.4101
Source: 1988 AACS.

R 28.4102
Source: 1995 AACS.

R 28.4102a
Source: 1995 AACS.

R 28.4103
Source: 1995 AACS.

R 28.4106
Source: 1985 AACS.

R 28.4107
Source: 1985 AACS.

R 28.4108
Source: 1995 AACS.

R 28.4109
Source: 1988 AACS.

R 28.4110
Source: 1988 AACS.

R 28.4111
Source: 1988 AACS.

R 28.4112
Source: 1988 AACS.

R 28.4113
Source: 1988 AACS.

R 28.4114
Source: 1988 AACS.

R 28.4115
Source: 1988 AACS.

R 28.4116
Source: 1988 AACS.

R 28.4117
Source: 1988 AACS.

Annual Administrative Code Supplement
1998 – 2000 Edition

R 28.4118

Source: 1988 AACS.

R 28.4119

Source: 1988 AACS.

R 28.4120

Source: 1988 AACS.

R 28.4121

Source: 1988 AACS.

LAW ENFORCEMENT OFFICER RECERTIFICATION

R 28.4151

Source: 1988 AACS.

R 28.4152

Source: 1988 AACS.

R 28.4153

Source: 1988 AACS.

R 28.4154

Source: 1988 AACS.

R 28.4155

Source: 1988 AACS.

R 28.4156

Source: 1988 AACS.

R 28.4157

Source: 1988 AACS.

R 28.4158

Source: 1988 AACS.

R 28.4159

Source: 1988 AACS.

R 28.4160

Source: 1988 AACS.

R 28.4161

Source: 1988 AACS.

R 28.4162

Source: 1988 AACS.

R 28.4163

Source: 1988 AACS.

R 28.4164

Source: 1988 AACS.

Annual Administrative Code Supplement
1998 – 2000 Edition

R 28.4165
Source: 1988 AACs.

R 28.4166
Source: 1988 AACs.

R 28.4167
Source: 1988 AACs.

R 28.4168
Source: 1988 AACs.

R 28.4169
Source: 1988 AACs.

R 28.4170
Source: 1988 AACs.

R 28.4171
Source: 1988 AACs.

R 28.4172
Source: 1988 AACs.

R 28.4173
Source: 1988 AACs.

R 28.4174
Source: 1988 AACs.

R 28.4175
Source: 1988 AACs.

R 28.4199
Source: 1988 AACs.

**STANDARDS FOR ACCEPTANCE OF CERTIFIED BASIC TRAINING AND EXPERIENCE
RECEIVED IN STATES OTHER THAN MICHIGAN**

R 28.4201—R 28.4206
Source: 1997 AACs.

PRESERVICE BASIC TRAINING PROGRAMS

R 28.4301
Source: 1995 AACs.

R 28.4302
Source: 1981 AACs.

R 28.4303
Source: 1981 AACs.

R 28.4304
Source: 1995 AACs.

Annual Administrative Code Supplement
1998 – 2000 Edition

R 28.4305

Source: 1981 AACs.

R 28.4306

Source: 1981 AACs.

R 28.4307

Source: 1981 AACs.

R 28.4308

Source: 1981 AACs.

R 28.4309

Source: 1995 AACs.

R 28.4310

Source: 1995 AACs.

R 28.4311

Source: 1981 AACs.

BASIC LAW ENFORCEMENT TRAINING PROGRAMS

R 28.4351

Source: 1995 AACs.

R 28.4352

Source: 1995 AACs.

R 28.4353

Source: 1995 AACs.

R 28.4354

Source: 1995 AACs.

R 28.4355

Source: 1995 AACs.

R 28.4356

Source: 1995 AACs.

R 28.4357

Source: 1995 AACs.

R 28.4358

Source: 1995 AACs.

R 28.4359

Source: 1995 AACs.

R 28.4360

Source: 1995 AACs.

Annual Administrative Code Supplement
1998 – 2000 Edition

R 28.4361
Source: 1995 AACS.

R 28.4362
Source: 1995 AACS.

R 28.4363
Source: 1995 AACS.

R 28.4364
Source: 1995 AACS.

R 28.4365
Source: 1995 AACS.

R 28.4366
Source: 1995 AACS.

**AUTOMATED FINGERPRINT IDENTIFICATION
SYSTEM POLICY COUNCIL**

AUTOMATED FINGERPRINT IDENTIFICATION SYSTEM

R 28.5001
Source: 1993 AACS.

R 28.5002
Source: 1993 AACS.

R 28.5003
Source: 1993 AACS.

R 28.5004
Source: 1993 AACS.

R 28.5005
Source: 1993 AACS.

R 28.5006
Source: 1993 AACS.

R 28.5007
Source: 1993 AACS.

R 28.5008
Source: 1993 AACS.

R 28.5009
Source: 1993 AACS.

R 28.5010
Source: 1993 AACS.

R 28.5011
Source: 1993 AACS.

R 28.5012—R 28.5016
Source: 1997 AACS.

Annual Administrative Code Supplement
1998 – 2000 Edition

R 28.5017

Source: 1993 AACs.

R 28.5018

Source: 1993 AACs.

FORENSIC SCIENCE DIVISION
DNA PROFILING SYSTEM

R 28.5051 Definitions.

Rule 1. As used in these rules:

- (a) "CODIS" means the federal bureau of investigation's combined DNA Index System.
- (b) "Offender" means a person, including a juvenile, who is convicted, or responsible for of a violation of section 91, 316, or 317, or a violation or an attempted violation of sections 349, 520b, 520c, 520d, 520e, and 520g of Act No. 328 of the Public Acts of 1931, as amended, being SS750.91, 750.316, 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g of the Michigan Compiled Laws.
- (c) "Sample" means a source of cellular DNA that is collected in a medically approved manner using the department of state police DNA collection kit.
- (d) "Upon conviction" means within a reasonable time after conviction and sentencing or disposition, but before the offender's release or transfer from state or county custody, as applicable.

History: 1995 MR 3, Eff. Mar. 28, 1995; 1998 MR 4, Eff. May 20, 1998.

R 28.5052 Applicability.

Rule 2. These rules apply to the collecting of samples from the following persons:

- (a) Persons who are convicted on or after January 1, 1997, as specified in section 91, 316, 317, 349, 520b, 520c, 520d, 520e, or 520g of Act No. 328 of the Public Acts of 1931, as amended, being (750.91, 750.316, 750.317, 750.349, 750.520b, 750.520c, 750.520d, 750.520e, or 750.520g of the Michigan Compiled Laws, or is responsible for as specified in Chapter XIIA of Act No. 288 of the Public Acts of 1939, as amended, being SS712a.18k of the Michigan Compiled Laws.
- (b) Persons who are released on or after January 1, 1997, as specified in section 33 of Act No. 232 of the Public Acts of 1953, as amended, being (791.233 of the Michigan Compiled Laws.
- (c) Persons as specified in section 7a of Act No. 150 of the Public Acts of 1974, being (803.307a of the Michigan Compiled Laws, or section 5a of Act No. 73 of the Public Acts of 1988, being (803.225a of the Michigan Compiled Laws.

History: 1995 MR 3, Eff. Mar. 28, 1995; 1998 MR 4, Eff. May 20, 1998.

R 28.5053 Responsibility for collecting samples.

Rule 3. The following agencies, as applicable, are designated as the agencies that are responsible for ensuring the collection of samples from offenders:

- (a) Upon the conviction of a person for violating or attempting to violate section 91, 316, 317, 349, 520b, 520c, 520d, 520e, or 520g of Act. No. 328 of the Public Acts of 1931, as amended, being SS750.91, 750.316, 750.317, 750.349, 750.520b, 750.520c, 750.520d, 750.520e, or 750.520g of the Michigan Compiled Laws, or section 18k of Act No. 288 of the Public Acts of 1939, as amended, being (712A.18k of the Michigan Compiled Laws, the investigating law enforcement agency is the designated agency and shall provide for the collection of a sample within 45 days of the conviction and before the person's transfer to the custody of the department of corrections.
- (b) If an offender has not previously had a sample collected and is serving a term of incarceration in a facility under the control of the county sheriff, then the investigating law enforcement agency is the designated agency and is responsible for ensuring the collection of the sample before the release of the offender in accordance with the provisions of section 33d of Act No. 232 of the Public Acts of 1953, as amended, being SS791.233d of the Michigan Compiled Laws.
- (c) If an offender has not previously had a sample collected and is transferred to a facility under the control

Annual Administrative Code Supplement
1998 – 2000 Edition

of the department of corrections to serve a term of incarceration, then the department of corrections is the designated agency and is responsible for ensuring the collection of the sample within 45 days after receiving the offender in accordance with the provisions of section 520m of Act No. 328 of the Public Acts of 1931, as amended, being (750.520m of the Michigan Compiled Laws.

(d) If a qualifying offender has not previously had a sample collected and is serving a term of incarceration in a facility under the control of the department of corrections, then the department of corrections is the designated agency and is responsible for ensuring the collection of the sample before the release of the offender in accordance with the provisions of section 33d of Act No. 232 of the Public Acts of 1953, as amended, being (791.233d of the Michigan Compiled Laws.

(e) If an offender has not previously had a sample collected and is serving a sentence, but is not physically incarcerated, then the investigating law enforcement agency is the designated agency and is responsible for ensuring the collection of the sample before the end of the sentence in accordance with the provisions of section 33d of Act No. 232 of the Public Acts of 1953, as amended, being (791.233d of the Michigan Compiled Laws.

(f) If an offender is a juvenile and committed as a state ward under section 7a of Act No. 150 of the Public Acts of 1974, as amended, being (803.307a of the Michigan Compiled Laws, or section 5a of Act No. 73 of the Public Acts of 1988, as amended, being (803.225a of the Michigan Compiled Laws, then the family independence agency is the designated agency and is responsible for ensuring the collection of the sample before the offender is discharged from wardship or released.

History: 1995 MR 3, Eff. Mar. 28, 1995; 1998 MR 4, Eff. May 20, 1998.

R 28.5054

Source: 1995 AACS.

R 28.5055

Source: 1995 AACS.

R 28.5056

Source: 1995 AACS.

R 28.5057

Source: 1995 AACS.

R 28.5058

Source: 1995 AACS.

R 28.5059

Source: 1995 AACS.

CRIMINAL JUSTICE DATA CENTER
LAW ENFORCEMENT INFORMATION NETWORK
PART 1. GENERAL PROVISIONS

R 28.5101

Source: 1981 AACS.

R 28.5102

Source: 1981 AACS.

R 28.5103

Source: 1981 AACS.

R 28.5104

Source: 1981 AACS.

Annual Administrative Code Supplement
1998 – 2000 Edition

R 28.5105
Source: 1981 AACS.

R 28.5106
Source: 1981 AACS.

R 28.5107
Source: 1981 AACS.

R 28.5108
Source: 1981 AACS.

R 28.5109
Source: 1981 AACS.

R 28.5110
Source: 1981 AACS.

R 28.5111
Source: 1981 AACS.

R 28.5112
Source: 1981 AACS.

R 28.5113
Source: 1981 AACS.

R 28.5114
Source: 1981 AACS.

R 28.5115
Source: 1981 AACS.

R 28.5116
Source: 1981 AACS.

R 28.5117
Source: 1981 AACS.

R 28.5118
Source: 1981 AACS.

R 28.5119
Source: 1981 AACS.

R 28.5120
Source: 1981 AACS.

PART 2. ACCESS, ELIGIBILITY, AND DATA DISSEMINATION PROVISIONS

R 28.5201
Source: 1981 AACS.

R 28.5202
Source: 1981 AACS.

R 28.5203
Source: 1981 AACS.

Annual Administrative Code Supplement
1998 – 2000 Edition

R 28.5204
Source: 1981 AACS.

R 28.5205
Source: 1981 AACS.

R 28.5206
Source: 1981 AACS.

R 28.5207
Source: 1981 AACS.

R 28.5208
Source: 1981 AACS.

R 28.5209
Source: 1981 AACS.

R 28.5210
Source: 1981 AACS.

R 28.5211
Source: 1981 AACS.

R 28.5212
Source: 1981 AACS.

R 28.5213
Source: 1981 AACS.

R 28.5214
Source: 1981 AACS.

PART 3. TERMINALS AND EQUIPMENT

R 28.5301
Source: 1981 AACS.

R 28.5302
Source: 1981 AACS.

R 28.5303
Source: 1981 AACS.

R 28.5304
Source: 1981 AACS.

R 28.5305
Source: 1981 AACS.

R 28.5306
Source: 1981 AACS.

R 28.5307
Source: 1981 AACS.

R 28.5308
Source: 1981 AACS.

Annual Administrative Code Supplement
1998 – 2000 Edition

R 28.5309
Source: 1981 AACS.

R 28.5310
Source: 1981 AACS.

R 28.5311
Source: 1981 AACS.

R 28.5312
Source: 1981 AACS.

R 28.5313
Source: 1981 AACS.

R 28.5314
Source: 1981 AACS.

R 28.5315
Source: 1981 AACS.

R 28.5316
Source: 1981 AACS.

R 28.5317
Source: 1981 AACS.

R 28.5318
Source: 1981 AACS.

R 28.5319
Source: 1981 AACS.

PART 4. RECORDS

R 28.5401
Source: 1981 AACS.

R 28.5402
Source: 1981 AACS.

R 28.5403
Source: 1981 AACS.

R 28.5404
Source: 1981 AACS.

R 28.5405
Source: 1981 AACS.

R 28.5406
Source: 1981 AACS.

R 28.5407
Source: 1981 AACS.

R 28.5408
Source: 1981 AACS.

Annual Administrative Code Supplement
1998 – 2000 Edition

R 28.5409

Source: 1981 AACS.

R 28.5410

Source: 1981 AACS.

R 28.5411

Source: 1981 AACS.

R 28.5412

Source: 1981 AACS.

R 28.5413

Source: 1981 AACS.

R 28.5414

Source: 1981 AACS.

STATE FIRE SAFETY BOARD

SCHOOL FIRE SAFETY

R 29.1—R 29.298

Source: 1997 AACS.

SCHOOLS, COLLEGES, AND UNIVERSITIES

R. 29.301 through R 29.321 Rescinded.

History: 1989 MR 7, Eff. Aug. 1, 1989; rescinded 1999 MR 12, Eff. Dec. 21, 1999.

FIRE FIGHTERS TRAINING COUNCIL

GENERAL RULES

R 29.415

Source: 1981 AACS.

STATE FIRE SAFETY BOARD

FIRE INSPECTOR CERTIFICATION

R 29.501

Source: 1982 AACS.

R 29.502

Source: 1982 AACS.

R 29.503

Source: 1982 AACS.

R 29.504

Source: 1982 AACS.

R 29.505

Source: 1982 AACS.

**Annual Administrative Code Supplement
1998 – 2000 Edition**

R 29.506
Source: 1982 AACS.

R 29.507
Source: 1982 AACS.

R 29.508
Source: 1982 AACS.

RADIOACTIVE MATERIAL TRANSPORTATION

R 29.551—R 29.560
Source: 1997 AACS.

NEW PENAL INSTITUTION FIRE SAFETY

PART 1. GENERAL PROVISIONS

R 29.601
Source: 1982 AACS.

R 29.602
Source: 1982 AACS.

R 29.603
Source: 1982 AACS.

R 29.604
Source: 1982 AACS.

R 29.605
Source: 1982 AACS.

PART 2. LIFE SAFETY CODE

R 29.621
Source: 1982 AACS.

R 29.622
Source: 1982 AACS.

HEALTH CARE FACILITIES

PART 1. GENERAL PROVISIONS

R 29.1001
Source: 1991 AACS.

R 29.1002
Source: 1991 AACS.

R 29.1003
Source: 1991 AACS.

R 29.1004
Source: 1991 AACS.

Annual Administrative Code Supplement
1998 – 2000 Edition

R 29.1005
Source: 1991 AACS.

R 29.1006
Source: 1991 AACS.

R 29.1007
Source: 1991 AACS.

R 29.1008
Source: 1991 AACS.

R 29.1009
Source: 1991 AACS.

R 29.1010
Source: 1991 AACS.

PART 2. FREESTANDING SURGICAL OUTPATIENT FACILITIES

R 29.1021
Source: 1991 AACS.

R 29.1022
Source: 1991 AACS.

R 29.1023
Source: 1991 AACS.

R 29.1024
Source: 1991 AACS.

PART 3. HOSPITALS, MENTAL HOSPITALS

R 29.1031
Source: 1991 AACS.

R 29.1032
Source: 1991 AACS.

PART 4. NURSING HOMES

R 29.1041
Source: 1991 AACS.

R 29.1042
Source: 1991 AACS.

PART 5. HOMES FOR THE AGED

R 29.1051
Source: 1991 AACS.

R 29.1052
Source: 1991 AACS.

R 29.1053
Source: 1991 AACS.

Annual Administrative Code Supplement
1998 – 2000 Edition

HEALTH CARE FACILITIES FIRE SAFETY

R 29.1101—R 29.1441

Source: 1997 AACs.

DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES

STATE FIRE SAFETY BOARD

FIRE PREVENTION

PART 1. GENERAL PROVISIONS

R 29.1601 Applicability.

Rule 1. (1) These rules apply to both of the following in accordance with sections 2 and 2b of the act, being §§29.2 and 29.2b of the Michigan Compiled Laws:

(a) Fire safety requirements for the construction, operation, or maintenance of places of public assemblage.

Exception: Places of public assemblage constructed in compliance with Act No. 230 of the Public Acts of 1972, as amended, being §§125.1501 et seq. of the Michigan Compiled Laws, do not need to comply with the construction requirements of the code.

(b) Fire safety requirements for the operation and maintenance of commercial buildings, industrial buildings, and residential buildings, excluding 1- and 2-family dwellings and mobile homes.

(2) These rules do not apply in a local jurisdiction with a legally adopted, nationally recognized fire prevention code.

(3) If a conflict occurs between Act No. 230 of the Public Acts of 1972, as amended, being §§125.1501 et seq. of the Michigan Compiled Laws and these rules, then the authority having jurisdiction shall determine the appropriate and applicable standard.

History: 1999 MR 12, Eff. Dec. 21, 1999.

R 29.1602 Fire prevention code; adoption by reference.

Rule 2. Except as amended by parts 2 to 4 of these rules, the provisions of chapters 1 to 9, 13, 16, 17, 18, 20, 21, 22, 23, 25, 26, 27, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, and 43 of national fire protection association pamphlet no. 1, 1997 edition, entitled "Fire Prevention Code" are adopted by reference as part of these rules. Copies of the adopted provisions are available for inspection and distribution

either at the office of the State Fire Safety Board, Michigan Department of Consumer and Industry Services, Office of Fire Safety, P.O. Box 30700, 7150 Harris Drive, Lansing, Michigan 48909, or from the National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269-9101, telephone number 1-800-344-3555. The cost as of the time of adoption of these rules is \$29.25 per copy.

History: 1999 MR 12, Eff. Dec. 21, 1999.

R 29.1603 Electrical equipment; inspections; certificate.

Rule 3. (1) Electrical wiring and equipment, including an emergency supply if installed, shall be installed in compliance with the applicable provisions of R 408.30801 et seq. of the Michigan Administrative Code. Copies of the rules are available from the Michigan Department of Consumer and Industry Services, Bureau of Construction Codes, P.O. Box 30254, Lansing, Michigan 48909.

(2) Electrical inspection shall be made by an electrical inspection authority acceptable to the office of fire safety. The authority shall issue a final certificate of compliance covering the installation. Upon request, a copy of the certificate shall be provided to the office of fire safety.

History: 1999 MR 12, Eff. Dec. 21, 1999.

Annual Administrative Code Supplement
1998 – 2000 Edition

R 29.1620 Rescissions.

Rule 20. (1) R 28.101, R 28.102, and R 28.104 to R 28.106 of the Michigan Administrative Code are rescinded.

(2) R 29.2501 to R 29.2733 of the Michigan Administrative Code are rescinded.

History: 1999 MR 12, Eff. Dec. 21, 1999.

PART 2. AMENDMENTS TO CHAPTERS 1 THROUGH 8 OF THE FIRE PREVENTION CODE

R 29.1621 Administration and enforcement.

Rule 21. Sections 1-4.1, 1-4.2, 1-4.3, 1-4.10, 1-4.12, 1-4.13, 1-4.15, 1-4.16, 1-5.6, 1-5.8, 1-5.9, 1-6.4, 1-7, 1-7.1, 1-7.2, 1-7.3, 1-7.4, 1-7.5, 1-7.6, 1-7.6.1, 1-7.6.2, 1-10, 1-10.1, 1-10.2, 1-10.3, 1-10.4, 1-11, 1-11.1, 1-11.2, 1-11.3, 1-13.2, 1-15, 1-15.1, 1-15.2, 1-15.3, 1-15.4, 1-15.5, 1-15.6, 1-15.7, 1-15.8, 1-15.9, 1-15.10, 1-15.11, 1-15.12, 1-15.13, 1-15.14, 1-15.15, 1-15.16, 1-17.3, 1-18, 1-18.1, 1-18.2, 1-18.3, and 1-18.4 of the code are deleted, sections 1-3, 1-4.6, and 1-9.8 of the code are amended, and section 1-4.5.1 is added to the code, to read as follows:

1-3. The provisions of the code are applicable to all of the following:

(a) The inspection of buildings, processes, equipment, systems, and other fire and related life safety situations.

(b) Deleted.

(c) The review of construction plans, drawings, and specifications for life safety systems, fire protection systems, access, water supplies, processes, hazardous materials, and other fire and life safety issues.

(d) The fire and life safety education of fire brigades, employees, responsible parties, and the general public.

(e) Existing occupancies and conditions, remodeling of existing buildings, and additions to existing buildings.

(f) Deleted.

(g) The design, alteration, modification, construction, maintenance, and testing of fire protection systems and equipment.

(h) Access requirements for fire department operations.

(i) Hazards from outside fires in vegetation, trash, building debris, and other materials.

(j) The regulation and control of special events, including but not limited to, exhibits, trade shows, amusement parks, haunted houses, and other similar special occupancies.

(k) The interior finish, decorations, furnishings, and other combustibles that contribute to fire spread, fire load, and smoke production.

1-4.1. Deleted.

1-4.2. Deleted.

1-4.3. Deleted.

1-4.5.1. If, in the opinion of the authority having jurisdiction, adequate fire protection is not being provided in a building, structure, or premises as required in these rules, or if fire protection is deemed necessary due to hazardous or dangerous conditions involving the occupancy of a building or structure, then the property owner, owner's representative, or tenant shall install special fire protection equipment in accordance with these rules and the requirements for the construction of new buildings and structures.

1-4.6. To the full extent permitted by law, any authority having jurisdiction engaged in fire prevention and inspection work is authorized at all reasonable times to enter and examine any building, structure, marine vessel, vehicle, or premises for the purpose of making fire safety inspections, other than 1- and 2-family dwellings and mobile homes.

1-4.10. Deleted.

1-4.12. Deleted.

1-4.13. Deleted.

1-4.15. Deleted.

1-4.16. Deleted.

1-5.6. Deleted.

1-5.8. Deleted.

1-5.9. Deleted.

Annual Administrative Code Supplement
1998 – 2000 Edition

1-6.4. Deleted.
1-7. Deleted.
1-7.1. Deleted.
1-7.2. Deleted.
1-7.3. Deleted.
1-7.4. Deleted.
1-7.5. Deleted.
1-7.6. Deleted.
1-7.6.1. Deleted.
1-7.6.2. Deleted.

1-9.8. Elevators are subject to routine and periodic inspection and testing as specified by the rules promulgated by the Michigan elevator safety board pursuant to the provisions of Act No. 227 of the Public Acts of 1967, as amended, being §408.8101 et seq. of the Michigan Compiled Laws.

1-10. Deleted.
1-10.1. Deleted.
1-10.2. Deleted.
1-10.3. Deleted.
1-10.4. Deleted.
1-11. Deleted.
1-11.1. Deleted.
1-11.2. Deleted.
1-11.3. Deleted.
1-13.2. Deleted.
1-15. Deleted.
1-15.1. Deleted.
1-15.2. Deleted.
1-15.3. Deleted.
1-15.4. Deleted.
1-15.5. Deleted.
1-15.6. Deleted.
1-15.7. Deleted.
1-15.8. Deleted.
1-15.9. Deleted.
1-15.10. Deleted.
1-15.11. Deleted.
1-15.12. Deleted.
1-15.13. Deleted.
1-15.14. Deleted.
1-15.15. Deleted.
1-15.16. Deleted.
1-17.3. Deleted.
1-18. Deleted.
1-18.1. Deleted.
1-18.2. Deleted.
1-18.3. Deleted.
1-18.4. Deleted.

History: 1999 MR 12, Eff. Dec. 21, 1999.

R 29.1622 Definitions, abbreviations, and terms.

Rule 22. Section 2-1 of the code is amended by deleting the definitions of "board of appeals," "certificate of fitness," and "jurisdiction," amending the definitions of "authority having jurisdiction" and "code," and adding the definitions of "act," "maintenance," and "operation" to read as follows:

"Act" means Act No. 207 of the Public Acts of 1941, as amended, being §29.1 et seq. of the Michigan

Annual Administrative Code Supplement
1998 – 2000 Edition

Compiled Laws.

"Authority having jurisdiction" means the director of the department of consumer and industry services, an employee of the department of consumer and industry services appointed by the director to implement the act, or an employee of a city, village, or township delegated authority to enforce the code under section 2b of the act.

"Board of appeals" deleted.

"Certificate of fitness" deleted.

"Code" means national fire protection association pamphlet no. 1, 1997 edition, entitled "Fire Prevention Code."

"Jurisdiction" deleted.

"Maintenance" means the service required to keep fire safety materials, equipment, systems, and system component parts in a condition of good repair or efficiency to assure the fire safety systems, materials, or equipment perform as intended. The service includes the replacement of component parts when for any reason the parts become undependable or inoperable and includes periodic inspections and tests of the fire safety materials, equipment, and systems.

"Operation" means the regular performance of the full range of intended functions of the fire safety features required by these rules.

History: 1999 MR 12, Eff. Dec. 21, 1999.

R 29.1623 General fire safety requirements.

Rule 23. Sections 3-1.2, 3-2, 3-2.1, 3-2.2, 3-2.3, 3-2.4, 3-2.5, 3-4.1, 3-9, 3-11.5, 3-12.1.2, and 3-13.8 of the code are deleted, sections 3-4.3 and 3-13.1 of the code are amended, and sections 3-14, 3-14.1, 3-14.2, 3-14.3, and 3-14.4 are added to the code, to read as follows:

3-1.2. Deleted.

3-2. Deleted.

3-2.1. Deleted.

3-2.2. Deleted.

3-2.3. Deleted.

3-2.4. Deleted.

3-2.5. Deleted.

3-4.1. Deleted.

3-4.3. A competent person shall constantly attend an open fire or cooking fire until the fire is extinguished.

3-9. Deleted.

3-11.5. Deleted.

3-12.1.2. Deleted.

3-13.1. A property owner or operator shall not permit natural cut Christmas trees in assembly, mercantile, or hotel occupancies.

Exception no. 1: A property owner or operator may permit a living tree that has its roots protected by an earth ball if the tree is maintained in a fresh condition and is not allowed to become dry.

Exception no. 2: A tree located in areas protected by an approved automatic sprinkler system.

Exception no.3: A tree that is freshly cut at least 1 inch above the original cut and maintained in an adequate water supply. A property owner or operator shall install a tree in a stand that will provide substantial support and shall check the water level on a daily basis. A property owner or operator shall remove a tree from the building immediately upon evidence of dryness and shall not allow a tree to remain in the facility for more than 10 days.

3-13.8. Deleted.

3-14. Special outdoor events, carnivals, and fairs.

3-14.1. The authority having jurisdiction shall regulate the area used for an outdoor event, such as carnivals and fairs, as the area pertains to access for emergency vehicles, access to fire protection equipment, the placement of stands, concession booths, and exhibits, and the control of hazardous conditions dangerous to life and property.

3-14.2. The authority having jurisdiction may require standby fire personnel when hazardous conditions exist due to the type of performance, display, exhibit, or activity, or due to the number of persons present.

Annual Administrative Code Supplement
1998 – 2000 Edition

3-14.3. The authority having jurisdiction may require the placement of 1 or more fire extinguishers at any concession stand in use at an outdoor event, carnival, or fair. A property owner or operator shall ensure that all fire extinguishers comply with national fire protection association pamphlet no. 10, 1994 edition, entitled "Standard for Portable Fire Extinguishers," which is adopted in these rules, and comply with section 6-6 of the code.

3-14.4. A property owner or operator shall locate at least 1 single station smoke detector in all stock or equipment trailers that are used for sleeping purposes.

History: 1999 MR 12, Eff. Dec. 21, 1999.

R 29.1624 Fire safety construction features.

Rule 24. Section 5-1 of the code is amended to read as follows:

5-1. A property owner or operator shall ensure that fire safety construction features for new and existing assembly occupancies comply with these rules and national fire protection association pamphlet no.

101, 1997 edition, entitled "Life Safety Code," which is adopted in these rules.

Exception: Places of public assemblage constructed in compliance with Act No. 230 of the Public Acts of 1972, as amended, being §§125.1501 et seq. of the Michigan Compiled Laws, do not need to comply with the construction requirements of the code.

History: 1999 MR 12, Eff. Dec. 21, 1999.

R 29.1625 Fire protection systems and equipment.

Rule 25. Sections 6-2.2, 6-2.3, 6-2.3.1, 6-2.3.2, 6-2.3.3, and 6-4.1.2 of the code are deleted, and sections 6-1.2, 6-1.3, and 6-3.1.2 of the code are amended, to read as follows:

6-1.2. The property owner or operator is responsible for the proper testing and maintenance of the equipment and systems.

6-1.3. The property owner or operator shall keep detailed records documenting all systems and equipment testing and maintenance and shall make the records available upon request for review by the authority having jurisdiction.

6-2.2. Deleted.

6-2.3. Deleted.

6-2.3.1. Deleted.

6-2.3.2. Deleted.

6-2.3.3. Deleted.

6-3.1.2. Before installation, the authority having jurisdiction may review and approve shop drawings.

6-4.1.2. Deleted.

History: 1999 MR 12, Eff. Dec. 21, 1999.

R 29.1626 Automatic sprinkler systems.

Rule 26. Sections 7-1.2, 7-1.3, 7-1.3.1, 7-1.3.2, 7-1.3.2.1, and 7-1.3.2.2 of the code are deleted, and section 7-2.1 of the code is amended, to read as follows:

7-1.2. Deleted.

7-1.3. Deleted.

7-1.3.1. Deleted.

7-1.3.2. Deleted.

7-1.3.2.1. Deleted.

7-1.3.2.2. Deleted.

7-2.1. The authority having jurisdiction may require that shop drawings for all fire protection systems be submitted for review and approval. The authority having jurisdiction may require that full acceptance tests of the systems be performed in the authority's presence before final system certification.

History: 1999 MR 12, Eff. Dec. 21, 1999.

R 29.1627 Fire detection and alarm systems.

Rule 27. Section 8-1.4 of the code is amended to read as follows:

8-1.4. The authority having jurisdiction may require that shop drawings for all fire protection systems be

Annual Administrative Code Supplement
1998 – 2000 Edition

submitted for review and approval. The authority having jurisdiction may require that full acceptance tests of the systems be performed in the authority's presence before final system certification.

History: 1999 MR 12, Eff. Dec. 21, 1999.

PART 3. OCCUPANCY FIRE SAFETY REQUIREMENTS

R 29.1631 Amendments to chapters 9, 13, 16, 17, 18, 20, 21, 22, 23, 25, and 26 of the code.

Rule 31. Sections 13-1, 16-1, 17-1, 18-1, 20-1.1, 20-2.2, 21-1, 21-2.2, 22-1, 22-3.1.1.1, 22-3.2.4, 22-3.3.3.2, 22-3.4.3, 22-4.1, 23-1.1, 23-4, 23-6.1, 25-1, 26-1, 26-1.1, and 26-2.1 of the code are amended, and sections 22-2, 22-2.1, 22-2.1.1, 22-2.1.2, 22-2.1.3, 22-2.2, 22-2.2.1, 22-2.2.1.1, 22-2.2.1.2, 22-2.2.1.3, 22-2.2.1.4, 22-2.2.1.5, 22-2.2.2, 22-2.2.2.1, 22-2.2.2.2, 22-2.2.3, 22-2.2.3.1, 22-2.2.3.2, 22-2.2.3.3, 22-2.2.3.4, 22-2.2.3.5, 22-2.2.3.6, 22-2.2.4, 22-2.2.4.1, 22-2.2.4.1.1, 22-2.2.4.2, 22-2.2.4.2.1, 22-2.2.4.2.2, 22-2.2.4.3, 22-2.2.4.4, 22-2.2.4.5, 22-2.2.4.6, 22-2.2.4.6.1, 22-2.2.4.6.2, 22-2.2.4.6.3, 22-2.2.4.6.4, 22-2.2.4.6.5, 22-2.2.4.6.6, 22-2.2.4.6.7, 22-2.2.4.7, 22-2.2.4.7.1, 22-2.2.4.7.2, 22-2.2.4.8, 22-2.2.4.9, 22-2.2.4.9.1, 22-2.2.4.9.2, 22-2.2.4.9.3, 22-2.2.4.9.4, 22-2.3, 22-2.3.1, 22-2.3.2, 22-2.3.3, 22-2.3.4, 22-2.3.5, 22-2.3.6, 22-2.3.7, 22-2.4, 22-2.4.1, 22-2.4.1.1, 22-2.4.1.2, 22-2.4.2, 22-2.4.2.1, 22-2.4.2.2, 22-2.4.2.3, 22-2.4.2.4, 22-2.4.2.5, 22-2.4.2.6, 22-2.4.2.7, 22-2.4.2.8, 22-2.4.2.9, 22-2.4.3, 22-2.4.3.1, 22-2.4.3.2, 22-2.4.3.3, 22-2.4.3.4, 22-2.4.3.5, 22-2.4.4, 22-2.4.4.1, 22-2.4.4.2, 22-2.5, 22-2.5.1, 22-2.5.1.1, 22-2.5.1.2, 22-2.5.1.3, 22-2.5.1.4, 22-2.5.1.5, 22-2.5.1.6, 22-2.5.2, 22-2.5.2.1, 22-2.5.2.2, 22-2.5.3, 22-2.5.3.1, 22-2.5.3.2, 22-2.5.3.3, 22-2.5.3.4, 22-2.5.3.5, 22-2.5.3.6, 22-2.5.4, 22-2.5.5, 22-2.5.5.1, 22-2.5.5.2, 22-2.6, 22-2.7, 22-2.7.1, 22-2.7.2, 22-2.7.2.1, 22-2.7.3, 22-2.7.4, 22-2.8, 22-2.8.1, 22-2.8.1.1, 22-2.8.1.2, 22-2.8.1.3, 22-2.8.1.4, 22-2.8.1.5, 22-2.8.1.6, 22-2.8.2, 22-2.8.2.1, 22-2.8.2.2, 22-2.8.3, 22-2.8.3.1, 22-2.8.3.2, 22-2.8.3.3, 22-2.8.3.4, 22-2.8.3.5, 22-2.8.4, 22-2.8.4.1, 22-2.8.4.2, 22-2.8.4.3, 22-2.8.4.4, 22-2.8.4.5, 22-2.8.4.6, 22-2.8.4.7, 22-2.8.5, 22-2.8.5.1, 22-2.8.5.2, 22-2.8.5.3, 22-2.8.5.4, 22-2.8.5.5, 22-2.8.5.6, 22-2.8.5.7, 22-2.8.5.8, 22-2.8.6, 22-2.8.6.1, 22-2.8.6.2, 22-2.8.7, 22-2.8.8, 22-2.8.8.1, 22-2.8.9, 22-2.9, 22-2.9.1, 22-2.9.1.1, 22-2.9.1.2, 22-2.9.1.3, 22-2.9.2, 22-2.9.2.1, 22-2.9.2.2, 22-2.9.2.3, 22-2.9.3, 22-2.9.3.1, 22-2.9.3.1.1, 22-2.9.3.1.2, 22-2.9.3.2, 22-2.9.3.3, 22-2.9.3.4, 22-2.9.4, 22-2.9.4.1, 22-2.9.4.2, 22-2.9.4.3, 22-2.9.4.4, 22-2.9.4.5, 22-2.9.4.6, 22-2.9.4.7, 22-2.9.5, 22-2.9.6, 22-2.9.6.1, 22-2.9.6.2, 22-2.9.6.3, 22-2.9.7, 22-2.9.7.1, 22-2.9.7.2, 22-2.9.7.3, 22-2.9.8, 22-2.9.8.1, 22-2.9.8.2, 22-2.9.8.3, 22-2.9.9, 22-2.9.10, 22-2.9.10.1, 22-2.9.10.2, 22-2.9.10.3, 22-2.9.10.4, 22-2.9.10.5, 22-2.9.10.6, 22-2.9.10.7, 22-2.9.10.8, 22-2.10, 22-2.10.1, 22-2.10.2, 22-2.10.3, 22-3.2.1, 22-3.2.2.1, 22-3.2.2.3, 22-3.2.2.4, 22-3.2.3.1, 22-4.2, 23-3, 23-5, 23-6.2, 26-1.3.1, 26-1.3.2, 26-2.2, 26-2.3, 26-2.4, 26-2.5, 26-2.5.1, and 26-2.5.2 of the code are deleted, to read as follows:

13-1. A property owner or operator shall ensure that new and existing residential board and care occupancies comply with this chapter and national fire protection association pamphlet no. 101, 1997 edition, entitled "Life Safety Code," which is adopted in these rules, as it relates to operation and maintenance.

16-1. A property owner or operator shall ensure that new and existing hotels and dormitories comply with this chapter and national fire protection association pamphlet no. 101, 1997 edition, entitled "Life Safety Code," which is adopted in these rules, as it relates to operation and maintenance.

Exception: School, college, and university dormitories that are regulated by rules promulgated in accordance with the act.

17-1. A property owner or operator shall ensure that new and existing apartment buildings comply with this chapter and national fire protection association pamphlet no. 101, 1997 edition, entitled "Life Safety Code," which is adopted in these rules, as it relates to operation and maintenance.

18-1. A property owner or operator shall ensure that new and existing lodging or rooming houses comply with this chapter and national fire protection association pamphlet no. 101, 1997 edition, entitled "Life Safety Code," which is adopted in these rules, as it relates to operation and maintenance.

20-1.1. A property owner or operator shall ensure that new and existing mercantile occupancies comply with this chapter and national fire protection association pamphlet no. 101, 1997 edition, entitled "Life Safety Code," which is adopted in these rules, as it relates to operation and maintenance.

20-2.2. A property owner or operator shall instruct employees who may be expected to use portable fire extinguishers in use of the extinguishers.

21-1. A property owner or operator shall ensure that new and existing business occupancies comply with this

Annual Administrative Code Supplement
1998 – 2000 Edition

chapter and national fire protection association pamphlet no. 101, 1997 edition, entitled "Life Safety Code," which is adopted in these rules, as it relates to operation and maintenance.

21-2.2. A property owner or operator shall instruct employees who may be expected to use portable fire extinguishers in use of the extinguishers.

22-1. A property owner or operator shall ensure that new and existing industrial occupancies comply with this chapter and national fire protection association pamphlet no. 101, 1997 edition, entitled "Life Safety Code," which is adopted in these rules, as it relates to operation and maintenance.

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Annual Administrative Code Supplement
1998 – 2000 Edition

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Annual Administrative Code Supplement
1998 – 2000 Edition

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Annual Administrative Code Supplement
1998 – 2000 Edition

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22-2.10.3. Deleted.

22-3.1.1.1. This section covers the protection of, and the control of hazards in, garages used for the major

Annual Administrative Code Supplement
1998 - 2000 Edition

repair and maintenance of motorized vehicles and any sales and servicing facilities associated with the garages.

22-3.2.1. Deleted.

22-3.2.2.1. Deleted.

22-3.2.2.3. Deleted.

22-3.2.2.4. Deleted.

22-3.2.3.1. Deleted.

22-3.2.4. A property owner or operator shall ensure that pits and subfloor work areas comply with both of the following provisions:

(a) Pits shall have a minimum of 2 unobstructed means of egress to prevent personnel from being trapped in the event of fire. Steps shall be noncombustible and slip-resistant and constructed so that there is no accessible storage space beneath the steps.

(b) The ventilation and drainage of pits and subfloor work areas shall be in accordance with the provisions of section 22-3.3.3.1 of the code.

22-3.3.3.2. A person shall not clean parts with a flammable liquid. A person may use a combustible liquid that has a flash point above 100 degrees Fahrenheit (37.8 degrees Celsius) (closed cup) for cleaning parts if adequate ventilation is supplied and if no sources of ignition are present in the cleaning area.

22-3.4.3. A property owner or operator shall train employees who may be expected to use available private fire fighting facilities in the use of the facilities.

22-4.1. A property owner or operator shall ensure that new and existing dry cleaning plants that use flammable liquids which have flash points below 100 degrees Fahrenheit comply with national fire protection association pamphlet no. 32, 1996 edition, entitled "Standard for Dry-cleaning Plants" which is adopted in these rules.

22-4.2. Deleted.

23-1.1. A property owner or operator shall ensure that new and existing storage occupancies comply with national fire protection association pamphlet no. 101, 1997 edition, entitled "Life Safety Code," which is adopted in these rules, as it relates to operation and maintenance.

23-3. Deleted.

23-4. A property owner or operator shall ensure that bulk storage elevators comply with national fire protection association pamphlet no. 61, 1995 edition, entitled "Standard for the Prevention of Fire and Dust Explosions in Agricultural and Food Products Facilities," which is adopted in these rules, as it relates to operation and maintenance.

23-5. Deleted.

23-6.1. A property owner or operator shall ensure that the storage of tires complies with national fire protection association pamphlet no.

231D, 1994 edition, entitled "Standard for Storage of Rubber Tires," which is adopted in these rules, as it relates to operation and maintenance.

23-6.2. Deleted.

25-1. A property owner or operator shall ensure that new and existing special structures and high-rise buildings comply with national fire protection association pamphlet no. 101, 1997 edition, entitled "Life Safety Code," which is adopted in these rules, as it relates to operation and maintenance.

26-1. Protection of airport terminal buildings.

26-1.1. A property owner or operator shall ensure that airport terminal buildings comply with the requirements of this section and national fire protection association pamphlet no. 416, 1997 edition, entitled "Standard on Construction and Protection of Airport Terminal Buildings," which is adopted in these rules, as it relates to operation and maintenance.

26-1.3.1. Deleted.

26-1.3.2. Deleted.

26-2.1. A property owner or operator shall ensure that rooftop heliport protection complies with this section and national fire protection association pamphlet no. 418, 1995 edition, entitled "Standard for Heliports," which is adopted in these rules, as it relates to operation and maintenance.

Annual Administrative Code Supplement
1998 – 2000 Edition

26-2.2. Deleted.
26-2.3. Deleted.
26-2.4. Deleted.
26-2.5. Deleted.
26-2.5.1. Deleted.
26-2.5.2. Deleted.

History: 1999 MR 12, Eff. Dec. 21, 1999.

PART 4. SPECIAL PROCESSES AND MATERIAL HANDLING

R 29.1641 Amendments to chapters 27, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, and 41 of the code.

Rule 41. Sections 27-1.4, 27-2.6.7, 27-2.6.7.1, 27-2.6.7.2, 27-2.6.8, 27-2.6.8.1, 27-2.6.8.2, 27-2.7.8.1, 27-2.7.8.2, 27-2.7.9, 27-2.7.9.1, 27-2.7.9.2, 27-2.8.4.1, 27-2.8.4.4, 27-2.8.4.4.1, 27-2.8.4.4.2, 27-3.6.1, 27-3.6.1.1, 27-3.6.1.2, 27-3.6.1.3, 27-3.6.1.4, 27-3.6.1.5, 27-3.6.1.5.1, 27-3.7.2, 27-3.7.2.1, 27-3.7.2.2, 27-3.7.2.3, 32-1.4, 33-1.1.3, 34-2.2.1, 35-3, 36-1.2, 36-1.2.1, 37-3.3, 37-3.4, 39-5.2, 40-1.2, 40-1.2.1, 40-1.2.2, 40-1.2.3, 40-1.3, 40-1.3.1, 40-1.3.2, 40-1.3.2.1, 40-1.3.2.2, 40-1.3.2.3, 40-1.3.2.4, 40-1.3.2.5, 40-1.3.2.6, 40-1.3.2.7, 40-1.3.2.8, and 41-1.5 of the code are deleted, sections 31-3, 31-4, 38-1, 41-2.1, 41-2.15.1, and 41-2.16.4 of the code are amendeded, and sections 31-7 and 38-1.1 are added to the code, to read as follows:

27-1.4. Deleted.
27-2.6.7. Deleted.
27-2.6.7.1. Deleted.
27-2.6.7.2. Deleted.
27-2.6.8. Deleted.
27-2.6.8.1. Deleted.
27-2.6.8.2. Deleted.
27-2.7.8.1. Deleted.
27-2.7.8.2. Deleted.
27-2.7.9. Deleted.
27-2.7.9.1. Deleted.
27-2.7.9.2. Deleted.
27-2.8.4.1. Deleted.
27-2.8.4.4. Deleted.
27-2.8.4.4.1. Deleted.
27-2.8.4.4.2. Deleted.
27-3.6.1. Deleted.
27-3.6.1.1. Deleted.
27-3.6.1.2. Deleted.
27-3.6.1.3. Deleted.
27-3.6.1.4. Deleted.
27-3.6.1.5. Deleted.
27-3.6.1.5.1. Deleted.
27-3.7.2. Deleted.
27-3.7.2.1. Deleted.
27-3.7.2.2. Deleted.
27-3.7.2.3. Deleted.

31-3. A person shall ensure that the manufacture, transportation, and storage of fireworks is in compliance with sections 243a to 243f of Act No. 328 of the Public Acts of 1931, as amended, being §§750.243a to 750.243f of the Michigan Compiled Laws.

31-4. A person shall ensure that model rocketry complies with Act No. 333 of Public Acts of 1965, as amended, being §259.781 et seq. of the Michigan Compiled Laws.

31-7. A person who transports or displays fireworks shall obtain a permit as required by sections 243b and

Annual Administrative Code Supplement
1998 – 2000 Edition

243c of Act No. 328 of the Public Acts of 1931, as amended, being §§750.243b and 750.243c of the Michigan Compiled Laws.

32-1.4. Deleted.

33-1.1.3. Deleted.

34-2.2.1. Deleted.

35-3. Deleted.

36-1.2. Deleted.

36-1.2.1. Deleted.

37-3.3. Deleted.

37-3.4. Deleted.

38-1. A person who manufactures, transports, stores, sells, or uses explosive materials shall comply with national fire protection association pamphlet no. 495, 1996 edition, entitled "Explosive Materials Code," and national fire protection association pamphlet no. 498, 1996 edition, entitled "Standard for Explosives in Motor Vehicle Terminals," which are adopted in these rules, and Act No. 202 of the Public Acts of 1970, as amended, being §29.41 et seq. of the Michigan Compiled Laws.

38-1.1. A person shall obtain a permit in compliance with Act No. 202 of the Public Acts of 1970, as amended, being §29.41 et seq. of the Michigan Compiled Laws.

39-5.2. Deleted.

40-1.2. Deleted.

40-1.2.1. Deleted.

40-1.2.2. Deleted.

40-1.2.3. Deleted.

40-1.3. Deleted.

40-1.3.1. Deleted.

40-1.3.2. Deleted.

40-1.3.2.1. Deleted.

40-1.3.2.2. Deleted.

40-1.3.2.3. Deleted.

40-1.3.2.4. Deleted.

40-1.3.2.5. Deleted.

40-1.3.2.6. Deleted.

40-1.3.2.7. Deleted.

40-1.3.2.8. Deleted.

41-1.5. Deleted.

41-2.1. The property owner or operator shall provide fire lanes in accordance with section 3-5 of the code at the start of a project and shall maintain the fire lanes throughout construction for access acceptable to the local fire authority.

41-2.15.1. A person who stores flammable and combustible liquids shall comply with rules promulgated under the act.

41-2.16.4. The property owner or operator shall ensure that fuel supplies for liquefied petroleum gas-fired heaters comply with rules promulgated in accordance with the act and national fire protection association pamphlet no. 54, 1996 edition, entitled "National Fuel Gas Code," which is adopted in these rules.

History: 1999 MR 12, Eff. Dec. 21, 1999.

DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES

STATE FIRE SAFETY BOARD

NEW AND EXISTING SCHOOL, COLLEGE, AND UNIVERSITY FIRE SAFETY

PART 1. GENERAL PROVISIONS

Annual Administrative Code Supplement
1998 – 2000 Edition

R 29.1901 Applicability.

Rule 1. These rules apply to all new and existing school, college, and university facilities used for instructional purposes as defined in these rules.

History: 1999 MR 12, Eff. Dec. 21, 1999.

R 29.1902 Life safety code; adoption by reference.

Rule 2. The provisions of chapters 1 to 7, 8, 9, 10, 11, 26, 27, 32, and 33 of national fire protection association pamphlet no. 101, 1997 edition, entitled "Life Safety Code," are adopted by reference as part of these rules. Copies of the adopted provisions are available for inspection and distribution through the State Fire Safety Board, Michigan Department of Consumer and Industry Services, Office of Fire Safety, 7150 Harris Drive, Lansing, Michigan 48913, or from the National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269-9101, telephone number 1-800-344-3555. The cost of the provisions as of the time of adoption of these rules is \$44.50.

History: 1999 MR 12, Eff. Dec. 21, 1999.

R 29.1903 Definitions.

Rule 3. As used in these rules:

- (a) "Act" means Act No. 207 of the Public Acts of 1941, as amended, being S29.1 et seq. of the Michigan Compiled Laws.
- (b) "Authority having jurisdiction" means the director of the department of consumer and industry services, an employee of the department of consumer and industry services appointed by the director to implement the act, or an employee of a city, village, or township delegated authority to enforce the code under section 2b of the act.
- (c) "Central heating plant" means a fuel-fired heating system that serves more than 1 room.
- (d) "Code" means national fire protection association pamphlet no. 101, 1997 edition, entitled "Life Safety Code."
- (e) "College" or "university" means a building or part of a building which is used for instructional purposes, which is occupied by 6 or more students and used 4 or more hours per day or more than 12 hours per week, and which is owned or leased by, or under the control of, a junior college, community college, college, or university that is duly authorized to grant degrees by 1 of the following:
 - (i) Article VIII of the Michigan Constitution of 1963.
 - (ii) The Michigan legislature.
 - (iii) Action by the state board of education.
- (f) "Cosmetic remodeling" means surface changes solely to the wall, floor, and ceiling that do not decrease the fire rating of the wall, floor, or ceiling, including the replacement of windows and doors.
- (g) "Level of exit discharge" means a floor or floors of a building that exit directly to the outside at grade. A floor that is not more than 4 feet above or below grade at exit discharge is a level of exit discharge.
- (h) "Maintenance" means repair required to keep a building and its component parts in an operative condition at all times, including the replacement of its component parts when, for any reason, the component parts are no longer dependable. "Maintenance" does not include remodeling.
- (i) "Open court" means a court that is open and unobstructed on at least 1 side by a minimum of 15 feet in width and 10 feet in height. The opening shall lead to a public way.
- (j) "Penthouse" means an enclosed structure which has a definite floor, wall, and roof structure anchored to the building, which is located above the roof of a building, and which occupies not more than 1/3 of the roof area. A penthouse is not a story, but is part of the story below. A prefabricated weather enclosure around mechanical equipment for protection from the elements is not a penthouse or a story.
- (k) "Remodeling" means an alteration or change of fire-rated assembly, or the installation of new equipment

Annual Administrative Code Supplement
1998 – 2000 Edition

required by these rules.

(l) "Room" means a space or area bounded by any obstruction to egress that, at any time, encloses more than 80% of the perimeter of the space or area. An opening that is less than 3 feet clear wide and less than 6 feet 8 inches high shall not be considered in computing the unobstructed perimeter. A vestibule that is used for weather protection is not a room for the purposes of these rules.

(m) "Room, interior" means a room in which the only means of egress is through an adjoining or intervening room that does not meet the requirements for an exit.

(n) "School" means a building or part of a building which is owned or leased by, or under the control of, a public or private school or school system for the purpose of instruction as required by section 1561 of Act No. 451 of the Public Acts of 1976, as amended, being §380.1561 of the Michigan Compiled Laws, which is occupied by 6 or more students, and which is used 4 or more hours per day or more than 12 hours per week.

History: 1999 MR 12, Eff. Dec. 21, 1999.

R 29.1904 Plans and specifications.

Rule 4. (1) A school, college, university, or designated representative shall submit plans and specifications to the office of fire safety for all projects that involve construction, remodeling, or an addition. Construction shall not commence until office of fire safety approval has been received in writing.

(2) A school, college, or university need not submit plans and specifications to the office of fire safety for maintenance functions or cosmetic remodeling; however, a school, college, or university shall ensure that all work is in compliance with these rules.

(3) Plans and specifications for work that involves the practice of architecture or engineering, as defined in Act No. 299 of the Public Acts of 1980, as amended, being §339.101 et seq. of the Michigan Compiled Laws, and known as the occupational code, shall bear the seal of an architect or professional engineer who is registered under Act No. 299 of the Public Acts of 1980, as amended. This subrule does not apply to construction, remodeling, or an addition for which the contemplated expenditure for the completed project is less than \$15,000.00, as specified in section 2011 of Act No. 299 of the Public Acts of 1980, as amended, being §339.2011 of the Michigan Compiled Laws.

(4) Plans and specifications shall contain all of the following information, as applicable:

(a) A complete floor plan and layout of the building drawn accurately to scale.

(b) The use of each room.

(c) The dimensions of each room.

(d) The size, location, direction of swing, and fire rating of each door and frame assembly.

(e) The size and location of windows.

(f) The wall construction, including the fire-resistance rating.

(g) The type of construction as identified in national fire protection association pamphlet no. 220, 1995 edition, entitled "Standard on Types of Building Construction."

(h) The number of stories, including basement and attic areas.

(i) The interior finish classification.

(j) The location of fuel-fired equipment.

(k) The type of furnace and water heater.

(l) Air-handling systems.

(m) Fire detection and alarm systems.

(n) Sprinkler or other suppression systems.

(o) The type, size, and location of fire extinguishers.

(p) Other pertinent information that is required to determine compliance with these rules.

(5) A firm certified in compliance with section 26 of the act shall submit fire alarm/detection system and fire suppression system plans to the office of fire safety in compliance with the act. The certified firm shall submit the complete shop drawings to, and receive approval from, the office of fire safety before installation of either a fire alarm or fire suppression system.

(6) Plan approval that is given before the effective date of these rules terminates 6 months after the effective date of these rules if construction has not started. However, upon written request to the office of fire safety, the office may grant approval for a specific instance.

(7) An architect or engineer who seals plans and who ceases to be the architect or engineer of record before

Annual Administrative Code Supplement
1998 – 2000 Edition

completion of a project shall notify the office of fire safety in writing. Construction shall not continue until a new architect or engineer of record identifies himself or herself in writing to the office of fire safety.

History: 1999 MR 12, Eff. Dec. 21, 1999.

R 29.1905 Inspection during construction; approval for occupancy.

Rule 5. (1) During construction, addition, or remodeling, the architect, professional engineer, or owner's representative shall notify the office of fire safety, in writing, when the building is ready for inspection as follows:

(a) When the building is enclosed and mechanical systems are substantially complete, but before concealment.

(b) Upon completion of construction.

(2) A person shall not occupy a newly constructed facility or a facility that is being remodeled or added to, in whole or in part, without the approval of the office of fire safety.

History: 1999 MR 12, Eff. Dec. 21, 1999.

R 29.1906 Projects affecting outside configuration of building; site plan and specifications; office of fire safety or local fire department specifications; fire safety measures during construction.

Rule 6. (1) For projects that involve construction, addition, or remodeling that affects the outside configuration of a building, and as part of the building plans and specifications otherwise required by these rules and before construction, the owner or the owner's authorized representative shall provide the office of fire safety and the local fire department with a site plan and specifications that detail all of the following information, as applicable:

(a) The available water supply.

(b) Hydrant locations.

(c) Vehicle access routes.

(d) Fire lanes.

(2) During construction, the school, college, university, or designated representative shall take appropriate fire safety measures, including the provision of fire extinguishers and the establishment of access routes to the building that can be traveled by fire department vehicles.

History: 1999 MR 12, Eff. Dec. 21, 1999.

R 29.1907 Electrical equipment; inspections; certificate.

Rule 7. (1) A person shall install electrical wiring and equipment, including an emergency supply if installed, in compliance with the applicable provisions of R 408.30801 et seq. of the Michigan Administrative Code. Copies of the rules are available from the Michigan Department of Consumer and Industry Services, Bureau of Construction Codes, P.O. Box 30255, Lansing, Michigan 48909.

(2) An electrical inspection authority acceptable to the office of fire safety shall make an electrical inspection. The electrical inspection authority shall issue a final certificate of compliance covering the installation. The school, college, university, or designated representative shall provide a copy of the certificate to the office of fire safety.

History: 1999 MR 12, Eff. Dec. 21, 1999.

R 29.1908 Universal amendments.

Rule 8. Sections 1-3.11.1, 1-7.1, 6-4.3, 7-1.1, 7-4.2, 7-4.3, 7-6.3.2, and 7-6.4 of the code are amended and sections 7-1.2, 7-4.4, 7-4.5, 7-4.7, 7-4.8, 7-6.5.3, 8-1.2.5.2, and 9-1.2.5.2 of the code are deleted to read as follows:

1-3.11.1. A person may occupy a building or portion of a building during construction, repair, alterations, or additions only if all means of egress and all fire protection features in the building and on-site are in place and continuously maintained for the part occupied and if the occupied portion is separated from the part under construction by a wall that has a 1-hour-fire-resistance rating. The temporary 1-hour-rated wall that is used for separation may be constructed of combustible material. Instead of having all means of egress and fire protection features in place, the school, college, university, or designated representative may take other

Annual Administrative Code Supplement
1998 – 2000 Edition

measures that would provide equivalent safety if approved by the office of fire safety.

1-7.1. The school, college, university, or designated representative shall conduct fire exit drills in compliance with the act. The school, college, university or designated representative shall ensure that drills are designed in cooperation with the local fire authorities.

6-4.3. The school, college, university, or designated representative shall store and handle flammable and combustible liquids in compliance with rules promulgated under the act.

7-1.1. The school, college, university, or designated representative shall ensure that equipment which utilizes gas and related gas piping is installed in compliance with the provisions of national fire protection association pamphlet no. 54, 1996 edition, entitled "National Fuel Gas Code," or rules promulgated under the act, as applicable.

Exception: Existing installations may be continued in service subject to approval by the authority having jurisdiction.

7-1.2. Deleted.

7-4.2. The school, college, university or designated representative shall ensure that new elevators, escalators, dumbwaiters, and moving walks are installed in compliance with R 408.8101 et seq. of the Michigan Administrative Code.

7-4.3. The school, college, university, or designated representative shall ensure that existing elevators, escalators, dumbwaiters, and moving walks are in compliance with R 408.8101 et seq. of the Michigan Administrative Code.

7-4.4. Deleted.

7-4.5. Deleted.

7-4.7. Deleted.

7-4.8. Deleted.

7-6.3.2. The school, college, university, or designated representative shall ensure that notification is provided by audible and visible signals that are in compliance with sections 7-6.3.3 through 7-6.3.10 of the code.

Exception no. 1: Where permitted by sections 8 through 32 of the code, a presignal system is permitted when the initial fire alarm signal is automatically transmitted without delay to a municipal fire department or a fire brigade and to an on-site staff person who is trained to respond to a fire emergency.

Exception no. 2: Where permitted by sections 8 through 32 of the code, a positive alarm sequence is permitted if it is in compliance with the provisions of the national fire protection association pamphlet no. 72, 1996 edition, entitled "National Fire Alarm Code," which is adopted by reference in these rules.

7-6.4. (1) Where required by another section of the code, emergency forces notification shall be provided to alert the municipal fire department and fire brigade, if provided, of fire or other emergency.

(2) Where fire department notification is required by another section of the code, the school, college, university, or designated representative shall ensure that the fire alarm system is arranged to transmit the alarm automatically by any of the following means acceptable to the authority having jurisdiction and in accordance with national fire protection association pamphlet no. 72, 1996 edition, entitled "National Fire Alarm Code," which is adopted by reference in these rules:

(a) An auxiliary alarm system.

(b) A central station connection.

(c) A proprietary system.

(d) A remote station connection.

(3) A facility is in compliance if it has written policy and procedure that is approved by the authority having jurisdiction. The policy and procedure shall provide for all of the following:

(a) The designation of a staff member on each shift to be responsible for notifying a local fire department.

(b) The availability at all times of a nonpay telephone for employees who are designated under subdivision (a) of this subrule to notify a local fire department.

(c) That the telephone number of the local fire department is conspicuously posted near the telephone.

(d) A requirement that notification of the fire department is incorporated into all fire drills.

7-6.5.3. Deleted.

8-1.2.5.2. Deleted.

9-1.2.5.2. Deleted.

History: 1999 MR 12, Eff. Dec. 21, 1999.

Annual Administrative Code Supplement
1998 – 2000 Edition

R 29.1909 Fire reporting.

Rule 9. After the occurrence of a fire that results in loss of life or property or in personal injury, the administrative authority of the facility shall immediately notify the local fire department of all details of the fire.

History: 1999 MR 12, Eff. Dec. 21, 1999.

R 29.1910 Rescission.

Rule 10. R 29.301 to R 29.321 of the Michigan Administrative Code are rescinded.

History: 1999 MR 12, Eff. Dec. 21, 1999.

PART 2. SCHOOLS

R 29.1921 Life safety code; adoption by reference of standards for existing schools.

Rule 21. The provisions of chapters 1 to 7, 9, 11, and 33 of the code that apply to existing educational occupancies, except for the amendments specified in these rules, are adopted by reference in these rules. Copies of the adopted provisions are available for inspection and distribution through the State Fire Safety Board, Department of Consumer and Industry Services, Office of Fire Safety, 7150 Harris Drive, Lansing, Michigan 48913, or from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269, telephone number 1-800-344-3555. The cost of the adopted provisions as of the time of adoption of these rules is \$44.50.

History: 1999 MR 12, Eff. Dec. 21, 1999.

R 29.1922 Amendments.

Rule 22. Sections 11-1.2.1, 11-1.4.2, 11-1.6, 11-2.1.2, 11-2.11.1, 11-3.4.1, 11-3.6, 11-3.7.1, and 11-7.1.1 of the code are amended, sections 11-7.1.2, 11-7.1.2.1, 11-7.1.2.2, and 11-7.4 of the code are deleted, and sections 11-1.6.1, 11-1.6.1.1, 11-3.6.1, and 11-3.6.2 are added to the code, to read as follows:

11-1.2.1. If other types of occupancies occur in the same building that houses an educational occupancy, then either of the following provisions shall apply:

(a) The school or designated representative shall ensure that the mixed uses are completely separated, both horizontally and vertically, by fire separation walls or floor ceiling assemblies, or both. The walls and assemblies shall have a minimum 2-hour-fire-resistance rating.

(b) The school or designated representative shall apply the provisions of the code for the more restrictive of the separate occupancies to the entire facility in compliance with section 4-1.12 of the code.

11-1.4.2. Educational occupancies shall not include any of the following:

(a) A part or full-day preschool.

(b) A daycare center.

(c) A kindergarten-only building.

(d) A building that houses a combination of preschool and kindergarten.

(e) A building that houses a combination of daycare and kindergarten.

Exception: A building in which kindergarten classrooms are operated under the authority of a public school system.

11-1.6. A multistory school building constructed before August 1, 1989, shall have all structural members protected by a minimum 1-hour-fire-rated assembly.

Exception no. 1: A totally sprinklered building that is not more than 2 stories may have unprotected structural members.

Exception no. 2: An existing school building that was constructed and approved before May 15, 1973, shall have all fire protection features required at the time of construction maintained as a minimum level of protection.

11-1.6.1. A school building constructed on or after August 1, 1989, is limited to the following construction types, heights, and areas per floor:

Construction Type.....Allowable Height/Area

I (443)..... No limit.

Annual Administrative Code Supplement
1998 - 2000 Edition

I (332).....	No limit.
II (222).....	5 stories/34,200 square feet.
II (111).....	3 stories/22,500 square feet.
II (000).....	2 stories/14,400 square feet.
III (211).....	3 stories/19,800 square feet.
III (200).....	2 stories/14,400 square feet.
IV (2HH)	3 stories/21,600 square feet.
V (111).....	1 story/15,300 square feet.
V (000).....	1 story/7,200 square feet.

Exception no. 1: If a school building is completely protected by an automatic fire suppression system, then floor areas may be increased by 200% for 1 and 2-story buildings and 100% for buildings that are more than 2 stories.

Exception no. 2: If a school building is completely protected by an automatic fire suppression system, then a building may be 1 story higher than allowed in the table specified in this section.

Exception no. 3: If each classroom has at least 1 door that leads directly to the exterior at grade, then floor areas may be increased by 200%.

11-1.6.1.1. For the purpose of section 11-1.6.1 of the code, a person shall count the number of stories starting with the primary level of exit discharge and ending with the highest occupiable level. For the purpose of this section, the primary level of exit discharge of a building is the floor that is level with or above finished grade of the exterior wall line for 50% or more of the building perimeter. A person shall not count the building level below the primary level as a story in determining the height of a building.

11-2.1.2. The school or designated representative shall ensure that rooms normally occupied by preschool, kindergarten, or first-grade pupils are not located above or below the story of exit discharge. The school or designated representative shall ensure that rooms normally occupied by second-grade pupils are not located more than 1 story above the story of exit discharge.

Exception: Rooms in school buildings constructed before August 1, 1989.

11-2.11.1. Every room or space which is more than 250 square feet (23.2 square meters) and which is used for classroom or other educational purposes or is normally subject to student occupancy shall have at least 1 outside window for emergency rescue or ventilation. The window shall be openable from the inside without the use of tools and shall provide a clear opening of not less than 20 inches (50.8 centimeters) in width, 24 inches (61 centimeters) in height, and 5.7 square feet (53 square meters) in area. The clear opening shall permit a rectangular solid that has a minimum width and height which provide the required 5.7 square feet opening and a minimum depth of 20 inches to pass fully through the opening. The bottom of the opening shall be not more than 44 inches (112 centimeters) above the floor. The school or designated representative shall ensure that windows designated as emergency windows are identified by a permanent durable and legible sign which is securely fastened at a conspicuous location and which has letters that are not less than 5/8 of an inch high and 1/8 of an inch wide. Windows that open onto an open court, as defined in the code, are acceptable.

Exception no. 1: In buildings protected throughout by an approved automatic sprinkler system in compliance with section 7-7 of the code. Exception no. 2: If the room or space has a door leading directly to the outside of the building. Exception no. 3: In rooms located more than 3 stories above grade, the openable clear height, width, and area of the window may be modified to the dimensions necessary for ventilation.

Exception no. 4: Awning or hopper-type windows that are hinged or subdivided to provide a clear opening which is not less than 600 square inches (3900 square centimeters) in area and which does not have any dimension less than 22 inches (55.9 centimeters) may be continued in use. Screen walls or devices in front of required windows shall not interfere with normal rescue requirements.

Exception no. 5: If the room or space is in compliance with all of the following provisions:

(a) Doors exist that allow travel between adjacent classrooms and, when used to travel from classroom to classroom, provide direct access to exits in both directions or direct access to an exit in 1 direction and to a separate smoke compartment that provides access to another exit in the other direction.

(b) The corridor is separated from the classrooms by a wall that resists the passage of smoke, and all doors between the classrooms and the corridor are self-closing or automatic-closing in compliance with section 5-

Annual Administrative Code Supplement
1998 – 2000 Edition

2.1.8 of the code.

(c) The length of travel to exits specified in subdivisions (a) and (b) of this exception is not more than 150 feet (45 meters).

(d) Each communicating door is marked in compliance with section 5-10 of the code.

(e) A locking device is not allowed on the communicating doors.

Exception no. 6: A school building constructed before August 1, 1989, that is in compliance with both of the following provisions:

(a) The windowless section of the floor is not more than 25% of the total area of the story, excluding corridors.

(b) All windowless rooms, spaces, and public assembly places have 50% of their required exits visible directly to the exterior of the building and within 20 feet from the door of the occupied room.

11-3.4.1. The school or designated representative shall ensure that an educational occupancy is provided with a fire alarm system in compliance with section 7-6 of the code.

Exception: A 1-room educational building that is located not less than 25 feet from another school building and not less than 10 feet from another 1-room educational building at any point.

11-3.6. Interior corridors.

11-3.6.1. The school or designated representative shall ensure that every interior corridor is constructed of fire barriers that have not less than a 1-hour-fire-resistance rating in compliance with section 6-2.3 of the code.

Exception no. 1: A corridor is not required if all spaces normally subject to student occupancy have at least 1 door opening directly to the outside or to an exterior exit access balcony or corridor in compliance with section 11-2.5.6 of the code.

Exception no. 2: In a building protected throughout by an approved automatic sprinkler system with valve supervision installed in compliance with section 7-7 of the code, corridor walls are not required to be rated if the walls, in conjunction with openings in the walls, and ceilings at which the corridor walls terminate, resist the passage of smoke.

Exception no. 3: Existing doors may be 1 3/4-inch (4.4 centimeters) thick solid bonded wood core doors or the equivalent.

Exception no. 4: Lavatories need not be separated from corridors if the lavatories are separated from all other spaces by fire barriers that have a 1-hour-fire-resistance rating in compliance with section 6-2.3 of the code.

Exception no. 5: In a school building constructed before August 1, 1989, every interior corridor, including corridors in flexible plan buildings, shall be constructed to be reasonably smoke-tight.

Exception no. 6: In a school building which was constructed before August 1, 1989, and which is protected throughout by an approved automatic sprinkler system installed in compliance with section 7-7 of the code, corridor walls are not required.

11-3.6.2. The school or designated representative shall ensure that clothing and personal effects are not stored in corridors and lobbies.

Exception: Metal lockers with doors are permitted in corridors for storing clothing and personal effects if the required corridor width is maintained.

11-3.7.1. The school or designated representative shall ensure that a school building is subdivided into compartments by smoke barriers that are in compliance with section 6-3 of the code if either of the following provisions applies:

(a) The maximum area of a compartment, including the aggregate area of all floors that have a common atmosphere, is more than 30,000 square feet (2,800 square meters).

(b) The length or width of the building is more than 300 feet (91 meters).

Exception no. 1: If all classrooms have exterior exit access in compliance with section 5-5.3 of the code.

Exception no. 2: A building that is protected throughout by an approved automatic sprinkler system in compliance with section 7-7 of the code.

Exception no. 3: A school building constructed before August 1, 1989.

11-7.1.1. The school or designated representative shall conduct fire exit drills regularly in compliance with the applicable provisions of the following paragraphs and with the provisions of the act.

11-7.1.2. Deleted.

Annual Administrative Code Supplement
1998 – 2000 Edition

11-7.1.2.1. Deleted.

11-7.1.2.2. Deleted.

11-7.4. Deleted.

History: 1999 MR 12, Eff. Dec. 21, 1999.

R 29.1923 Life safety code; adoption by reference of standards for new schools.

Rule 23. The provisions of chapters 1 to 7, 8, 10, and 33 of the code that apply to new educational occupancies, except for the amendments specified in these rules, are adopted by reference in these rules. Copies of the adopted provisions are available for inspection and distribution through the State Fire Safety Board, Department of Consumer and Industry Services, Office of Fire Safety, 7150 Harris Drive, Lansing, Michigan 48913, or the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269, telephone number 1-800-344-3555. The cost of the adopted provisions as of the time of adoption of these rules is \$44.50 per copy.

History: 1999 MR 12, Eff. Dec. 21, 1999.

R 29.1924 Amendments.

Rule 24. Sections 10-1.1.1, 10-1.2.1, 10-1.4.2, 10-1.6, 10-1.7.1, 10-2.2.2.4, 10-2.11.1, 10-3.3.1, 10-3.4.1, 10-3.4.2.1, 10-3.6, and 10-7.1.1 of the code are amended, sections 10-7.1.2, 10-7.1.2.1, 10-7.1.2.2, and 10-7.4 of the code are deleted, and sections 10-1.6.1, 10-3.2.3.1, 10-3.4.4, 10-3.4.5, 10-3.6.1, and 10-3.6.2 are added to the code, to read as follows:

10-1.1.1. The requirements of this section apply to all of the following:

- (a) New buildings or portions of new buildings used as educational occupancies.
- (b) Additions made to, or used as, an educational occupancy.
- (c) Alterations, modernizations, or renovations of existing educational occupancies. If the renovation or alteration involves more than 50% of the total floor area of the facility, then the entire facility shall comply with requirements of these rules for new educational occupancies.
- (d) An existing building or a portion of an existing building upon change of occupancy to an educational occupancy.

10-1.2.1. If other types of occupancies occur in the same building that houses an educational occupancy, then either of the following provisions shall apply:

- (a) The school or designated representative shall ensure that the mixed occupancies are completely separated, both horizontally and vertically, by fire separation walls or floor ceiling assemblies, or both. The walls and assemblies shall have a minimum 2-hour-fire-resistance rating.
- (b) The school or designated representative shall apply the provisions of the code for the more restrictive of the separate occupancies to the entire facility in compliance with section 4-1.12 of the code.

10-1.4.2. Educational occupancies shall not include any of the following:

- (a) A part or full-day preschool.
- (b) A daycare center.
- (c) A kindergarten-only building.
- (d) A building that houses a combination of preschool and kindergarten.
- (e) A building that houses a combination of daycare and kindergarten.

Exception: A building in which kindergarten classrooms are operated under the authority of a public school system.

10-1.6. A school building is limited to the following construction types, heights, and areas per floor:

Construction Type.....Allowable Height/Area

I (443).....No limit.

I (332).....No limit.

II (222).....5 stories/34,200 square feet.

II (111).....3 stories/22,500 square feet.

II (000).....2 stories/14,400 square feet.

III (211).....3 stories/19,800 square feet.

III (200).....2 stories/14,400 square feet.

Annual Administrative Code Supplement
1998 – 2000 Edition

IV (2HH) 3 stories/21,600 square feet.
V (111)..... 1 story/15,300 square feet.
V (000)..... 1 story/7,200 square feet.

Exception no. 1: If a school building is completely protected by an automatic fire suppression system, then tabular floor areas may be increased by 200% for 1 and 2-story buildings and 100% for a building that is more than 2 stories.

Exception no. 2: If a school building is completely protected by an automatic fire suppression system, then a building may be 1 story higher than allowed in the table specified in this section.

Exception no. 3: If every student-occupied room has at least 1 door that leads directly to the exterior at grade, then tabular floor areas may be increased by 200%.

Exception no. 4: If a building or structure has more than 25% of the building perimeter fronting on a street or other unoccupied space, then tabular floor areas may be increased 2% for each 1% of the excess frontage. The unoccupied space shall be on the same lot or the unoccupied space shall be on ground dedicated for public use; shall not be less than 30 feet in width; and shall be accessible from a street by a posted fire lane that is not less than 18 feet in width.

10-1.6.1. For the purpose of section 10-1.6 of the code, a person shall count the number of stories starting with the primary level of exit discharge and ending with the highest occupiable level. For the purpose of this section, the primary level of exit discharge of a building is the floor that is level with or above finished grade of the exterior wall line for 50% or more of the building perimeter. A person shall not count a building level below the primary level as a story in determining the height of a building.

10-1.7.1. The school or designated representative shall determine the occupant load, specified in number of persons for whom means of egress and other requirements are to be provided, on the basis of the following occupant load factors or the maximum probable population of any room or section under consideration, whichever is greater:

(a) Classrooms: 1 person for every 20 net square feet (1.9 net square meters).

(b) Shops, laboratories, and similar vocational rooms: 1 person for every 50 net square feet (4.6 net square meters).

(c) Locker rooms: 1 person per 7 square feet of net area, or 1 person for every 15 square feet of gross area, including all adjacent spaces such as showers, toilets, and drying rooms.

10-2.2.2.4. The school or designated representative shall ensure that any exit door that is designed to normally be kept closed is in compliance with section 5-2.1.8 of the code. The school or designated representative shall ensure that the automatic sprinkler system, the fire alarm system, and the systems required by section 5-2.1.8(c) of the code, if provided, are arranged to initiate the closing action of all exit doors specified in this section, by zone or throughout the entire facility.

Exception: A door in a boiler or heat plant room shall not be held open.

10-2.11.1. Every room or space which is more than 250 square feet (23.2 square meters) and which is used for classroom or other educational purposes or is normally subject to student occupancy shall have at least 1 outside window for emergency rescue or ventilation. The school or designated representative shall ensure that the window is openable from the inside without the use of tools and provides a clear opening of not less than 20 inches (50.8 centimeters) in width, 24 inches (61 centimeters) in height, and 5.7 square feet (53 square meters) in area.

The school or designated representative shall ensure that the bottom of the opening is not more than 44 inches (112 centimeters) above the floor and that any latching device is capable of being operated from not more than 54 inches (137 centimeters) above the finished floor. The school or designated representative shall ensure that the clear opening permits a rectangular solid that has a minimum width and height which provide the required 5.7 square foot opening and a minimum depth of 20 inches to pass fully through the opening. The school or designated representative shall ensure that the windows are accessible by the fire department and open into an area that has access to a public way. Windows opening onto an open court, as defined in the code, are acceptable. The school or designated representative shall ensure that windows designated as emergency windows are identified by a permanent, durable, and legible sign which is securely fastened at a conspicuous location and which has letters that are not less than 5/8 of an inch high and 1/8 of

Annual Administrative Code Supplement
1998 – 2000 Edition

an inch wide.

Exception no. 1: In a building protected throughout by an approved automatic sprinkler system in compliance with section 7-7 of the code.

Exception no. 2: If the room or space has a door leading directly to the outside of the building.

Exception no. 3: In a room located more than 3 stories above grade, the openable clear height, width, and area of the window may be modified to the dimensions necessary for ventilation.

Exception no. 4: If a window retrofit project is undertaken in an existing school building, then compliance with the window clear opening dimensions is not required. Unless the existing sill construction is being modified, the existing sill height can be maintained. All other requirements of this section, however, apply.

10-3.2.3.1. The school or designated representative shall ensure that any room which is used for instruction and which has 3 or more gas outlets is provided with a master gas valve which is conveniently located outside the door of the room and which is clearly marked so that the valve may be closed without having to enter the room. This requirement does not apply to home economics rooms in which the gas outlets supply stoves for cooking.

10-3.3.1. The school or designated representative shall ensure that interior finish, in compliance with section 6-5 of the code, is as follows:

(a) Exits - class A.

(b) Other than exits - class A, B, or C.

Exception: The exposed portions of structural members that are in compliance with the requirements for type IV (2HH) construction need not be in compliance with the interior finish requirements specified in this section.

10-3.4.1. The school or designated representative shall ensure that educational occupancies are provided with a fire alarm system in compliance with section 7-6 of the code.

Exception: A 1-room educational building that is located not less than 25 feet from another school building and not less than 10 feet from another 1-room educational building at any point.

10-3.4.2.1. The school or designated representative shall ensure that initiation of the required fire alarm system is by manual means in compliance with section 7-6.2.1(a) of the code. The school or designated representative shall ensure that manual fire alarm stations are provided in compliance with sections 7-6.2.3 through 7-6.2.6 of the code and at all other exterior doors in the natural path of escape whether or not the path of escape is designated a required exit by these rules.

Exception: In buildings where all normally occupied spaces are provided with a 2-way communication system between the spaces and a constantly attended receiving station from which a general evacuation alarm can be sounded, the manual pull stations are required only in locations specifically designated by the authority having jurisdiction.

10-3.4.4. The school or designated representative shall ensure that the fire alarm system provides alarm zone annunciation in compliance with the requirements of section 7-6.7 of the code.

10-3.4.5. In buildings provided with automatic sprinkler protection, the school or designated representative shall ensure that all sprinkler control valves are electrically supervised through the fire alarm system to cause an audible and visual supervisory alarm signal at a location in the building where the signal will alert responsible school personnel.

Exception: Control valves for isolated hazardous areas permitted to be connected directly to a domestic water supply where chain locking of valves is permitted.

10-3.6. The school or designated representative shall ensure that every interior corridor is separated from all use areas by construction that has a minimum 1-hour-fire-resistance rated construction in compliance with section 6-2.3 of the code.

Exception no. 1: Corridor protection is not required if all spaces normally subject to student occupancy have at least 1 door opening directly to the outside or to an exterior exit access balcony or corridor in compliance with section 10-2.5.6 of the code.

Exception no. 2: In buildings that are protected throughout by an approved supervised automatic sprinkler system installed in compliance with section 7-7 of the code, corridor walls are not required to be rated if the walls, in conjunction with openings in the walls and ceilings at which the walls terminate, resist the passage of smoke. All doors in the walls shall be 1 3/4-inch solid core wood or equivalent and shall be equipped with positive-latching hardware. Door closers are not required.

Annual Administrative Code Supplement
1998 – 2000 Edition

Exception no. 3: If the corridor ceiling is an assembly that has a 1-hour-fire-resistance rating when tested as a wall, then the corridor wall may terminate at the corridor ceiling.

Exception no. 4: Lavatories need not be separated from corridors if the lavatories are separated from all other spaces by fire barriers that have not less than a 1-hour-fire-resistance rating in compliance with section 6-2.3 of the code.

10-3.6.1. The school or designated representative shall ensure that all glazing in walls or doors of required fire-rated exit corridors is a minimum of 1/4-inch wired glass in steel frames and does not have a dimension that is more than 54 inches. The school or designated representative shall ensure that the maximum size of each panel is in compliance with national fire protection association pamphlet no. 80, 1995 edition, entitled "Standard for Fire Doors and Windows," which is adopted

by reference in these rules.

Exception no. 1: There shall be no restriction in area and fire resistance of glass and frames in a building protected throughout by an approved automatic sprinkler system.

Exception no. 2: Alternative rated and listed glazing materials acceptable to the authority having jurisdiction are permitted.

10-3.6.2. The school or designated representative shall ensure that clothing and personal effects are not stored in corridors and lobbies.

Exception: Metal lockers with doors are permitted in corridors for storing clothing and personal effects if the required corridor width is maintained.

10-7.1.1. The school or designated representative shall conduct fire exit drills regularly in accordance with the applicable provisions of the following paragraphs and the provisions of the act.

10-7.1.2. Deleted.

10-7.1.2.1. Deleted.

10-7.1.2.2. Deleted.

10-7.4. Deleted.

History: 1999 MR 12, Eff. Dec. 21, 1999.

PART 3. COLLEGES AND UNIVERSITIES

R 29.1931 Life safety code; adoption by reference for existing colleges and universities.

Rule 31. The provisions of chapters 1 to 7, 27, and 33 of the code that apply to existing business occupancies, except for the amendments specified in these rules, are adopted by reference in these rules. Copies of the adopted provisions are available for inspection and distribution through the State Fire Safety Board, Department of Consumer and Industry Services, Office of Fire Safety, 7150 Harris Drive, Lansing, Michigan 48913, or from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269, telephone number 1-800-344-3555. The cost of the adopted provisions as of the time of adoption of these rules is \$44.50.

History: 1999 MR 12, Eff. Dec. 21, 1999.

R 29.1932 Amendments.

Rule 32. Section 27-1.6.1 is added to the code, and sections 27-1.2.1, 27-1.6, 27-2.4.2, 27-2.5.3, and 27-3.3.2 of the code are amended, to read as follows:

27-1.2.1. If other types of occupancies occur in the same building that houses an educational occupancy, then either of the following provisions shall apply:

(a) The college, university, or designated representative shall ensure that the mixed occupancies are completely separated, both horizontally and vertically, by fire separation walls or floor ceiling assemblies, or both. The wall and assemblies shall have a minimum 2-hour-fire-resistance-rating.

(b) The college, university, or designated representative shall apply the provisions of the code for the more restrictive of the separate occupancies to the entire facility in compliance with section 4-1.12 of the code.

27-1.6. All multistory college or university buildings constructed before August 1, 1989, shall have all structural members protected by a minimum of a 1-hour-fire-rated assembly.

Exception no. 1: A totally sprinklered building that is not more than 2 stories may have unprotected

Annual Administrative Code Supplement
1998 - 2000 Edition

structural members.

Exception no. 2: An existing college or university building constructed and approved before May 15, 1973, shall have all fire protection features required at the time of construction maintained as a minimum level of protection.

27-1.6.1. A college or university building constructed on or after August 1, 1989, is limited to the following construction types, heights, and areas per floor:

Construction Type Allowable Height/Area

I	(443).....	No limit.
I	(332).....	No limit.
II	(222).....	7 stories/34,200 square feet.
II	(111).....	5 stories/22,500 square feet.
II	(000).....	3 stories/14,400 square feet.
III	(211).....	4 stories/19,800 square feet.
III	(200).....	3 stories/14,400 square feet.
IV	(2HH).....	5 stories/21,600 square feet.
V	(111).....	3 stories/15,300 square feet.
V	(000).....	2 stories/7,200 square feet.

Exception: If a college or university building is completely protected by an automatic fire suppression system, then floor areas may be increased by 200% for 1 and 2-story buildings and by 100% for a building that is more than 2 stories.

27-2.4.2. The college, university, or designated representative shall ensure that not less than 2 separate exits are provided on every story and are accessible from every part of every story and mezzanine.

Exception to accessibility: Exit access travel may be common for the distances allowed as common paths of travel by section 27-2.5.3 of the code.

Exception no. 1: For a room or area which has a total occupant load of less than 100 persons, which has an exit that discharges directly to the outside at the level of exit discharge for the building, and which has a total travel distance, including travel within the exit, from any point of not more than 100 feet (30 meters), a single exit is permitted. Travel shall be on the same floor level. If the traversing of stairs is required, then the stairs shall be not more than 15 feet (4.5 meters) in height, shall be provided with complete enclosures to separate the stairs from any other part of the building, and shall not have door openings. A single outside stair that is in compliance with section 5-2.2 of the code may serve all floors allowed within the 15-foot (4.5 meters) vertical travel limitation.

Exception no. 2: A business occupancy which is not more than 3 stories and which does not have an occupant load of more than 30 people per floor may have a single separate exit to each floor if the total travel distance to the outside of the building is not more than 100 feet (30 meters) and, if the exit is enclosed in compliance with section 5-1.3 of the code, the exit does not serve other levels and discharges directly to the outside. A single outside stair that is in compliance with section 5-2.2 of the code may serve all floors.

Exception no. 3: A single means of egress is permitted from a mezzanine within a business occupancy if the common path of travel is not more than 75 feet (23 meters) or is not more than 100 feet (30 meters) and if the means of egress is protected throughout by an approved automatic sprinkler system in compliance with section 7-7 of the code.

27-2.5.3. The college, university, or designated representative shall ensure that a common path of travel is not more than 75 feet (23 meters).

Exception: A common path of travel is permitted for the first 100 feet (30 meters) on a story protected throughout by an approved automatic sprinkler system in compliance with section 7-7 of the code.

27-3.3.2. The college, university, or designated representative shall ensure that interior wall and ceiling finish that is in compliance with section 6-5.5 of this code is class A or class B in exits and enclosed corridors furnishing access to exits and is class A, or class B, or class C in all other areas.

History: 1999 MR 12, Eff. Dec. 21, 1999.

R 29.1933 Life safety code; adoption by reference of standards for new colleges and universities.

Annual Administrative Code Supplement
1998 – 2000 Edition

Rule 33. The provisions of chapters 1 to 7, 26, and 33 of the code that apply to new business occupancies, except for the amendments specified in these rules, are adopted by reference in these rules. Copies of the adopted code are available for inspection and distribution at the office of the State Fire Safety Board, Office of Fire Safety, 7150 Harris Drive, Lansing, Michigan 48909 and from the National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269, telephone number 1-800-344-3555. The cost of the adopted provisions as of the time of adoption of these rules is \$44.50.

History: 1999 MR 12, Eff. Dec. 21, 1999.

R 29.1934 Amendments.

Rule 34. Sections 26-1.2.1, 26-1.6, 26-2.4, 26-2.5.3, 26-3.3.2, and 26-3.6.1 of the code are amended, section 26-1.2.2.2 of the code is deleted, and section 26-3.2.3.1 is added to the code, to read as follows:

26-1.2.1. If other types of occupancies occur in the same building that houses an educational occupancy, then either of the following provisions shall apply:

(a) The college, university, or designated representative shall ensure that the mixed uses are completely separated, both horizontally and vertically, by fire separation walls or floor ceiling assemblies, or both. The walls and assemblies shall have a minimum 2-hour-fire-resistance rating.

(b) The college, university, or designated representative shall apply the provisions of the code for the more restrictive of the separate occupancies to the entire facility in compliance with section 4.1.12 of the code.

26-1.2.2.2. Deleted.

26-1.6. A college or university is limited to the following construction types, heights, and areas per floor:

Construction Type	Allowable Height/Area
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I (443).....	No limit.
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I (332).....	No limit.
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II (222).....	7 stories/34,200 square feet.
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II (111).....	5 stories/22,500 square feet.
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II (000).....	3 stories/14,400 square feet.
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III (211).....	4 stories/19,800 square feet.
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III (200).....	3 stories/14,400 square feet.
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IV (2HH)	5 stories/21,600 square feet.
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V (111).....	3 stories/15,300 square feet.
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V (000).....	2 stories/7,200 square feet.
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Exception no. 1: If a college or university building is completely protected by an automatic fire suppression system, then floor areas may be increased by 200% for 1 and 2-story buildings and by 100% for a building that is more than 2 stories.

Exception no. 2: If a college or university building is completely protected by an automatic fire suppression system, then a building may be 1 story higher than allowed in the table specified in this section.

Exception no. 3: If every student-occupied room has at least 1 door that leads directly to the exterior at grade, then tabular floor areas may be increased by 200%.

Exception no. 4: If a building or structure has more than 25% of the building perimeter fronting on a street or other unoccupied space, then tabular floor areas may be increased 2% for each 1% of the excess frontage. The unoccupied space shall be on the same lot or the unoccupied space shall be on ground dedicated for public use; shall not be less than 30 feet in width; and shall be accessible from a street by a posted fire lane that is not less than 18 feet in width.

26-2.4. The college, university, or designated representative shall ensure that not less than 2 separate exits are provided on every story and are accessible from every part of every story and mezzanine.

Exception to accessibility: Exit access travel may be common for distances allowed as common paths of travel by section 26-2.5.3 of the code.

Exception no. 1: For a room or area which has a total occupant load of less than 100 persons, which has an exit that discharges directly to the outside at the level of exit discharge for the building, and which has a total travel distance, including travel within the exit, from any point of not more than 100 feet (30 meters), a single exit is permitted. Travel shall be on the same floor level. If the traversing of stairs is required, then the stairs shall be not more than 15 feet (4.5 meters) in height, shall be provided with complete enclosures to separate the stairs from any other part of the building, and shall not have door

Annual Administrative Code Supplement
1998 – 2000 Edition

openings. A single outside stair that is in compliance with section 5-2.2 of the code may serve all floors allowed within the 15-foot (4.5 meters) vertical travel limitation.

Exception no. 2: A business occupancy which is not more than 3 stories and which does not have an occupant load of more than 30 people per floor may have a single separate exit to each floor if the total travel distance to the outside of the building is not more than 100 feet (30 meters) and, if the exit is enclosed in compliance with section 5-1.3 of the code, the exit does not serve other levels and discharges directly to the outside. A single outside stair that is in compliance with section 5-2.2 of the code may serve all floors.

Exception no. 3: A single means of egress is permitted from a mezzanine within a business occupancy if the common path of travel is not more than 75 feet (23 meters) or is not more than 100 feet (30 meters) and if the means of egress is protected throughout by an approved automatic sprinkler system in compliance with section 7-7 of the code.

26-2.5.3. The college, university, or designated representative shall ensure that a common path of travel is not more than 75 feet (23 meters).

Exception: A common path of travel is permitted for the first 100 feet (30 meters) in a building protected throughout by an approved supervised automatic sprinkler system in compliance with section 7-7 of the code.

26-3.2.3.1. The college, university, or designated representative shall ensure that any room which is used for instruction and which has 3 or more gas outlets is provided with a master gas valve which is conveniently located outside the door of the room and which is clearly marked so that the valve may be closed without having to enter the room.

26-3.3.2. The college, university, or designated representative shall ensure that interior wall and ceiling finish in compliance with section 6-5.5 of the code is class A or class B in exits and enclosed corridors furnishing access to exits and is class A, or class B, or class C in all other areas.

26-3.6.1. If access to exits is provided by corridors, then the college, university, or designated representative shall ensure that the corridors are separated from use areas by fire barriers that have a fire-resistance rating of at least 1 hour in compliance with section 6-2.3 of the code.

Exception no. 1: If exits are available from an open floor area.

Exception no. 2: In a building protected throughout by an approved, automatic sprinkler system installed in compliance with section 7-7 of the code, the college, university, or designated representative shall ensure that corridors are separated from all other use areas by reasonably smoke-tight construction.

Exception no. 3: Lavatories need not be separated from corridors if the lavatories are separated from all other spaces by fire barriers that have not less than a 1-hour-fire-resistance rating in compliance with section 6-2.3 of the code.

History: 1999 MR 12, Eff. Dec. 21, 1999.

DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES

STATE FIRE SAFETY BOARD

DORMITORY FIRE SAFETY FOR SCHOOLS, COLLEGES, AND UNIVERSITIES

PART 1. GENERAL PROVISIONS

R 29.2001 Applicability.

Rule 1. These rules apply to fire safety requirements for the construction, operation, or maintenance of all new and existing school, college, and university dormitories that are owned, leased, or managed by, or under the direct control of, the school authority.

History: 1999 MR 12, Eff. Dec. 21, 1999.

R 29.2002 Life safety code; adoption by reference.

Rule 2. The provisions of chapters 1 to 7, 16, 17, 18, 19, 32, and 33 of the national fire protection association pamphlet no. 101, 1997 edition, entitled "Life Safety Code," referred to in these rules as "code,"

Annual Administrative Code Supplement
1998 - 2000 Edition

are adopted by reference as part of these rules. Copies of the adopted provisions are available for inspection and distribution through the State Fire Safety Board, located at the Michigan Department of Consumer and Industry Services, Office of Fire Safety, 7150 Harris Drive, Lansing, Michigan 48913, or from the National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269-9101, telephone number 1-800-344-3555. The cost of the adopted provisions as of the time of adoption of these rules is \$44.50.

History: 1999 MR 12, Eff. Dec. 21, 1999.

R 29.2003 "Authority having jurisdiction" defined.

Rule 3. As used in the code, the "authority having jurisdiction" means the director of the department of consumer and industry services, an employee of the department of consumer and industry services appointed by the director to implement the act, or an employee of a city, village, or township delegated authority to enforce the code under section 2b of the act, for the purpose of these rules.

History: 1999 MR 12, Eff. Dec. 21, 1999.

R 29.2004 Definitions.

Rule 4. (1) As used in these rules:

- (a) "Act" means Act No. 207 of the Public Acts of 1941, as amended, being §29.1 et seq. of the Michigan Compiled Laws.
 - (b) "Code" means national fire protection association pamphlet no. 101, 1997 edition, entitled "Life Safety Code."
 - (c) "Cosmetic remodeling" means surface changes solely to the wall, floor, and ceiling that do not decrease the fire rating of the wall, floor, or ceiling, including the replacement of windows and doors.
 - (d) "Existing" means a building constructed and occupied as a dormitory before the effective date of these rules.
 - (e) "Level of exit discharge" means a floor or floors of a building that exit directly to the outside at grade. A floor that is not more than 4 feet above or below grade at exit discharge is also a level of exit discharge.
 - (f) "Maintenance" means repair required to keep a building and its component parts in an operative condition at all times. "Maintenance" includes the replacement of a building's components when, for any reason, the components become undependable or inoperable. "Maintenance" does not include remodeling.
 - (g) "Remodeling" means an alteration or a change of fire-rated assembly, or the installation of new equipment required by these rules.
 - (h) "School authority" means the authority as required by section 1561 of Act No. 451 of the Public Acts of 1976, as amended, being §380.1561 of the Michigan Compiled Laws, and the colleges and universities established under sections 4, 5, 6, and 7 of Article VIII of the State Constitution of 1963 and part 25 of Act No. 451 of the Public Acts of 1976, as amended, being §§380.1601 to 380.1607 of the Michigan Compiled Laws.
- (2) Terms defined in the act have the same meanings when used in these rules.

History: 1999 MR 12, Eff. Dec. 21, 1999.

R 29.2005 Plans and specifications.

Rule 5. (1) The school authority or designated representative shall submit plans and specifications to the office of fire safety for all projects that involve construction, remodeling, or an addition.

(2) The school authority or designated representative need not submit plans and specifications to the office of fire safety for maintenance functions or cosmetic remodeling; however, the school authority or designated representative shall perform all work in compliance with these rules.

(3) Plans and specifications for work that involves the practice of architecture or engineering, as defined in Act No. 299 of the Public Acts of 1980, as amended, being §339.101 et seq. of the Michigan Compiled Laws, and known as the occupational code, shall bear the seal of an architect or professional engineer who is registered under Act No. 299 of the Public Acts of 1980, as amended.

(4) Plans and specifications shall contain all of the following information, as applicable:

- (a) A complete floor plan and layout of the building drawn accurately to scale.
- (b) The use of each room.

Annual Administrative Code Supplement
1998 – 2000 Edition

- (c) The dimensions of each room.
 - (d) The size, location, direction of swing, and fire rating of each door and frame assembly.
 - (e) The size and location of windows.
 - (f) The wall construction, including fire-resistance rating.
 - (g) The type of construction as identified by the provisions of national fire protection association pamphlet no. 220, 1995 edition, entitled "Standard Types of Building Construction."
 - (h) The number of stories, including basement and attic areas.
 - (i) The interior finish classification.
 - (j) The location of fuel-fired equipment.
 - (k) The type of furnace and water heater.
 - (l) Air-handling system specifications.
 - (m) Fire detection and alarm systems.
 - (n) Sprinkler or other suppression system plans and specifications that are in compliance with the provisions of the act.
 - (o) The type, size, and location of fire extinguishers.
 - (p) Other pertinent information that is required to determine compliance with these rules.
- (5) A firm certified in compliance with section 26 of Act No. 207 of the Public Acts of 1941, as amended, being §29.26 of the Michigan Compiled Laws shall submit fire alarm/detection system and fire suppression system plans to the office of fire safety in compliance with the act. The certified firm shall submit the complete shop drawings, and receive approval from, the office of fire safety before installation of either a fire alarm or fire suppression system.
- (6) Plan approval that is given before the effective date of these rules terminates 6 months after the effective date of these rules if construction has not started. However, upon written request to the office of fire safety, the office may grant an approval for an extension in a specific instance.
- (7) An architect or engineer who seals plans and who ceases to be the architect or engineer of record before completion of a project shall notify the office of fire safety in writing. Construction shall not continue until a new architect or engineer of record has been identified to the office of fire safety, in writing, by the new architect or engineer of record.
- History: 1999 MR 12, Eff. Dec. 21, 1999.

R 29.2006 Inspection during construction; approval for occupancy.

Rule 6. (1) During construction, addition, or remodeling, the architect, professional engineer, or owner's representative shall notify the office of fire safety, in writing, when the building is ready for inspection as follows:

- (a) When the building is framed and mechanical systems are substantially complete, but before concealment.
 - (b) Upon completion of construction.
- (2) A newly constructed facility or a facility that is being remodeled or added to shall not be occupied, in whole or in part, without approval of the office of fire safety.

History: 1999 MR 12, Eff. Dec. 21, 1999.

R 29.2007 Projects affecting outside configuration of building; site plan and specifications; office of fire safety or local fire department specifications; fire safety measures during construction.

Rule 7. (1) For projects that involve construction, addition, or remodeling which affects the outside configuration of a building, and as part of the building plans and specifications otherwise required by these rules, the school authority or the designated representative shall provide the office of fire safety and the local fire department with a site plan and specifications that detail all of the following:

- (a) The available water supply.
 - (b) Hydrant locations.
 - (c) Vehicle access routes.
 - (d) Fire lanes.
- (2) The office of fire safety or local fire department may specify any of the following:
- (a) The size of the water mains that supply the hydrants.

Annual Administrative Code Supplement
1998 – 2000 Edition

- (b) The location of hydrants.
- (c) The locations and dimensions of fire department vehicle access routes.
- (d) The posting of fire lanes.
- (3) As soon as possible during construction, the school authority or designated representative shall ensure appropriate fire safety measures are taken, including the provision of fire extinguishers and fire suppression systems and the establishment of access routes to the building that can be traveled by fire department vehicles.

History: 1999 MR 12, Eff. Dec. 21, 1999.

R 29.2008 Electrical equipment; inspections; certificate.

Rule 8. (1) A person shall install electrical wiring and equipment, including an emergency supply if installed, in compliance with the applicable provisions of R 408.30801 et seq. of the Michigan Administrative Code. Copies of the rules are available from the Michigan Department of Consumer and Industry Services, Bureau of Construction Codes, 2501 Woodlake Circle, Second Floor, Okemos, Michigan 48864, P.O. Box 30254, Lansing, Michigan 48909.

(2) The electrical inspection authority having jurisdiction shall make the electrical inspection. The electrical inspection authority shall issue a certificate of compliance covering the installation and the school authority or designated representative shall provide a copy of the certificate to the office of fire safety.

History: 1999 MR 12, Eff. Dec. 21, 1999.

R 29.2009 Universal amendments.

Rule 9. Sections 1-3.11.1, 1-7.1, 6-4.3, 7-1.1, 7-4.2, 7-4.3, 7-6.3.2, and 7-6.4 of the code are amended and sections 7-1.2, 7-4.4, 7-4.5, 7-4.7, 7-4.8, and 7-6.5.3 of the code are deleted to read as follows:

1-3.11.1. A person may occupy a building or portion of a building during construction, repair, alterations, or additions only if all required means of egress and all required fire protection features are in place and continuously maintained for the part occupied and if the occupied portion is separated from the part under construction by a fire barrier that has a 1-hour-fire-resistance rating. The temporary 1-hour-rated fire barrier that is used for this purpose may be constructed of combustible material. Instead of having all required means of egress and fire protection features in place, the school authority or designated representative may take other measures that would provide equivalent safety if approved by the office of fire safety.

1-7.1. The school authority or designated representative shall conduct fire exit drills in compliance with the act. The school authority or designated representative shall design drills in cooperation with the local fire authorities.

6-4.3. The school authority or designated representative shall ensure that flammable and combustible liquids are stored and handled in compliance with rules promulgated under the act.

7-1.1. The school authority or designated representative shall ensure that equipment that utilizes gas and related gas piping is installed in compliance with national fire protection association pamphlet no. 54, 1996 edition, entitled "National Fuel Gas Code" adopted by reference in these rules or rules promulgated under the act, as applicable.

Exception: The school authority or designated representative may continue existing installations in service, subject to approval by the authority having jurisdiction.

7-1.2. Deleted.

7-4.2. The school authority or designated representative shall install new elevators, escalators, dumbwaiters, and moving walks in compliance with R 408.8101 et seq. of the Michigan Administrative Code.

7-4.3. The school authority or designated representative shall ensure that existing elevators, escalators, dumbwaiters, and moving walks are in compliance with R 408.8101 et seq. of the Michigan Administrative Code.

7-4.4. Deleted.

7-4.5. Deleted.

7-4.7. Deleted.

7-4.8. Deleted.

7-6.3.2. The school authority or designated representative shall ensure that notification is provided by

Annual Administrative Code Supplement
1998 – 2000 Edition

audible and visible signals that are in compliance with sections 7-6.3.3 through 7-6.3.10 of the code.

Exception no. 1: Where permitted by sections 8 through 32 of the code, a presignal system is permitted when the initial fire alarm signal is automatically transmitted without delay to a municipal fire department or a fire brigade and to an on-site staff person who is trained to respond to a fire emergency.

Exception no. 2: Where permitted by sections 8 through 32 of the code, a positive alarm sequence is permitted if it is in compliance with the provisions of the national fire protection association pamphlet no. 72, 1996 edition, entitled "National Fire Alarm Code," which is adopted by reference in these rules.

7-6.4. (1) Where required by another section of the code, the school authority or designated representative shall provide emergency forces notification to alert the municipal fire department and fire brigade, if provided, of fire or other emergency.

(2) Where fire department notification is required by another section of the code, the school authority or designated representative shall arrange the fire alarm system to transmit the alarm automatically by any of the following means acceptable to the authority having jurisdiction and in compliance with national fire protection association pamphlet no. 72, 1996 edition, entitled "National Fire Alarm Code," which is adopted by reference in these rules:

(a) An auxiliary alarm system.

(b) A central station connection.

(c) A proprietary system.

(d) A remote station connection.

(3) A facility is in compliance with required emergency forces notification if it has written policy and procedure that is approved by the authority having jurisdiction. The policy and procedure shall provide for all of the following:

(a) The designation of a staff member on each shift to be responsible for notifying a local fire department.

(b) The availability at all times of a nonpay telephone for employees who are designated under subdivision (a) of this subrule to notify a local fire department.

(c) Conspicuously posting the telephone number of the local fire department near the telephone.

(d) A requirement that notification of the fire department is incorporated into all fire drills.

7-6.5.3. Deleted.

History: 1999 MR 12, Eff. Dec. 21, 1999.

R 29.2010 Fire reporting.

Rule 10. After the occurrence of a fire that results in the loss of life, personal injury, or the loss of property, the administrative authority of the facility shall immediately notify the local fire department of all details of the fire.

History: 1999 MR 12, Eff. Dec. 21, 1999.

PART 2. NEW SCHOOL, COLLEGE, AND UNIVERSITY DORMITORY FACILITIES

R 29.2021 Life safety code; adoption by reference for new school, college, and university dormitories owned, leased, or managed by, or under direct supervision of, school authority.

Rule 21. (1) The provisions of chapters 1 to 7, 16, 32, and 33 of the code that apply to new school dormitories, except as amended in subrule (2) of this rule, are adopted by reference in these rules. Copies of the adopted provisions are available for inspection and distribution through the State Fire Safety Board located at the Michigan Department of Consumer and Industry Services, Office of Fire Safety, 7150 Harris Drive, Lansing, Michigan 48913, or the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269, telephone 1-800-344-3555.

The cost of the adopted provisions as of the time of adoption of these rules is \$44.50.

(2) Sections 16-1.1 and 16-1.6 of the code are amended, and section 16-1.6.1 is added to the code, to read as follows:

16-1.1. The requirements of this section apply to all of the following:

(a) New buildings or portions of new buildings used as hotel or dormitory occupancies.

(b) Additions made to, or used as, a hotel or dormitory occupancy.

(c) Alterations, modernizations, or renovations of existing hotel or dormitory occupancies.

Annual Administrative Code Supplement
1998 – 2000 Edition

(d) Existing buildings or portions of existing buildings upon change of occupancy to a hotel or dormitory occupancy.

Exception: A dormitory that is divided into suites of rooms which have 1 or more bedrooms opening into a living room or study that has a door which opens into a common corridor that serves a number of suites is classified as an apartment building and shall be in compliance with section 18 of the code.

16-1.6. The minimum construction requirements shall be as indicated for the following types of construction:

Type of Construction	Allowable Height
I (443).....	No limit.
I (332).....	No limit.
II (222).....	10 stories.
II (111).....	5 stories.
II (000).....	4 stories.
III (211).....	5 stories.
III (200).....	4 stories.
IV (2HH).....	5 stories.
V (111).....	4 stories.
V (000).....	3 stories.

16-1.6.1. For the purpose of section 16-1.6 of the code, the number of stories shall be counted starting with the primary level of exit discharge and ending with the highest occupiable level. For the purpose of this section, the primary level of exit discharge of a building shall be the floor that is level with or above finished grade of the exterior wall line for 50% or more of its perimeter. Building levels below the primary level shall not be counted as a story in determining the height of a building.

History: 1999 MR 12, Eff. Dec. 21, 1999.

R 29.2022 Life safety code; adoption by reference of provisions for new apartment buildings as referenced by chapter 16 of the code for dormitories designed as described in the exception to section 16-1.1.

Rule 22. (1) The provisions of chapters 1 to 7, 18, 32, and 33 of the code that apply to new apartment buildings, except for the amendments set forth in subrule (2) of this rule, are adopted by reference in these rules for dormitories designed as described in the exception to section 16-1.1.

Copies of the adopted provisions are available for inspection and distribution through the State Fire Safety Board, located at the Michigan Department of Consumer and Industry Services, Office of Fire Safety, 7150 Harris Drive, Lansing, Michigan 48913, or the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02296, telephone 1-800-344-3555. The cost of the adopted provisions as of the time of adoption of these rules is \$44.50.

(2) Section 18-1.6 of the code is amended, and section 18-1.6.1 is added to the code, to read as follows:

18-1.6. The minimum construction requirements shall be as indicated for the following types of construction:

Type of Construction	Allowable Height
I (443).....	No limit.
I (332).....	No limit.
II (222).....	10 stories.
II (111).....	5 stories.
II (000).....	4 stories.
III (211).....	5 stories.
III (200).....	4 stories.
IV (2HH).....	5 stories.
V (111).....	4 stories.
V (000).....	3 stories.

18-1.6.1. For the purpose of section 18-1.6 of the code, the number of stories shall be counted starting with

Annual Administrative Code Supplement
1998 – 2000 Edition

the primary level of exit discharge and ending with the highest occupiable level. For the purpose of this section, the primary level of exit discharge of a building shall be the floor that is level with or above finished grade of the exterior wall line for 50% or more of its perimeter. Building levels below the primary level shall not be counted as a story in determining the height of a building.

History: 1999 MR 12, Eff. Dec. 21, 1999.

PART 3. EXISTING SCHOOL, COLLEGE, AND UNIVERSITY DORMITORY FACILITIES

R 29.2031 Life safety code; adoption by reference for existing school, college, and university dormitories owned, leased, or managed by, or under direct supervision of, school authority.

Rule 31. (1) The provisions of chapters 1 to 7, 17, and 33 of the code that apply to existing school dormitories, except for the amendments set forth in subrule (2) of this rule, are adopted by reference in these rules. Copies of the adopted provisions are available for inspection and distribution through the State Fire Safety Board, located at the Michigan Department of Consumer and Industry Services, Office of Fire Safety, 7150 Harris Drive, Lansing, Michigan 48913, or from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269, telephone 1-800-344-3555. The cost of the adopted provisions as of the time of adoption of these rules is \$44.50.

(2) Sections 17-1.1 and 17-3.6.3 of the code are amended and section 17-3.5.2 of the code is deleted, to read as follows:

17-1.1. The requirements of this chapter apply to existing buildings or portions of buildings currently occupied as hotel or dormitory occupancies.

Exception: A dormitory that is divided into suites of rooms which have 1 or more bedrooms that open into a living room or study that has a door which opens into a common corridor that serves a number of suites is classified as an apartment building and shall be in compliance with section 19 of the code.

17-3.5.2. Deleted.

17-3.6.3. The school authority or designated representative shall ensure that doors which open onto exit access corridors are self-closing and self-latching. The school authority or designated representative shall comply with this requirement within 2 years of the effective date of these rules.

History: 1999 MR 12, Eff. Dec. 21, 1999.

R 29.2032 Life safety code; adoption by reference of provisions for existing apartment buildings as referenced by chapter 17 of the code for dormitories designed as described in the exception to section 17-1.1.

Rule 32. (1) The provisions of chapters 1 to 7, 19, and 33 of the code that apply to existing apartment buildings, except for the amendments set forth in subrule (2) of this rule, are adopted by reference in these rules for dormitories designed as described in the exception to section 17-1.1.

Copies of the adopted provisions are available for inspection and distribution through the State Fire Safety Board, Office of Fire Safety, 7150 Harris Drive, Lansing, Michigan 48913, or from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02296, telephone 1-800-344-3555. The cost of the adopted provisions as of the time of adoption of these rules is \$44.50.

(2) Section 19-3.6.3 of the code is amended, and section 19-3.5.6 of the code is deleted, to read as follows:

19-3.6.3. The school authority or designated representative shall ensure that doors which open onto exit access corridors are self-closing and self-latching. The school authority or designated representative shall comply with this requirement within 2 years of the effective date of these rules.

19-3.5.6. Deleted.

History: 1999 MR 12, Eff. Dec. 21, 1999.

DEPARTMENT OF ENVIRONMENTAL QUALITY
UNDERGROUND STORAGE TANK DIVISION

Annual Administrative Code Supplement
1998 – 2000 Edition

UNDERGROUND STORAGE TANK INSPECTION DELEGATION AND CERTIFICATION

R 29.2071

Source: 1993 AACS.

R 29.2072

Source: 1993 AACS.

R 29.2073

Source: 1993 AACS.

R 29.2074

Source: 1993 AACS.

R 29.2075

Source: 1993 AACS.

R 29.2076

Source: 1993 AACS.

R 29.2077

Source: 1993 AACS.

UNDERGROUND STORAGE TANK SYSTEMS

R 29.2101 Adoption of standards by reference.

Rule 1. The provisions of 40 C.F.R. part 280, subparts A to H, (1988), entitled "Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks," as amended by 54 F.R. November 9, 1989, pages 47081 to 47092, and as amended by 58 F.R. February 18, 1993, pages 9050 to 9059, are adopted by reference in these rules. Copies of the adopted regulations may be obtained from the Department of Environmental Quality, Storage Tank Division, P.O. Box 30157, Lansing, Michigan 48909-7657, or from the United States Environmental Protection Agency, 401 M Street S.W., Washington, DC 20460. As of the time of adoption of these rules, the adopted regulations may be obtained without cost. History: 1990 MR 12, Eff. Jan. 3, 1991; 1998 MR 12, Eff. Dec. 30, 1998.

AMENDMENTS TO ADOPTED FEDERAL REGULATIONS
SUBPART A. PROGRAM SCOPE AND INTERIM PROHIBITION

R 29.2103 Applicability.

Rule 3. Section 280.10 is amended to read as follows:

Section 280.10. (a) The requirements of these rules apply to all owners and operators of a UST system.

(b) Deleted.

(c) Deferrals. Subparts B, C, D, E, and G do not apply to any of the following types of UST systems:

(1) A wastewater treatment tank system.

(2) Any UST system which contains radioactive material and which is regulated under the provisions of the atomic energy act of 1954, as amended, 42 U.S.C. § 2011 et seq.

(3) Any UST system that is part of an emergency generator system at nuclear power generation facilities regulated by the nuclear regulatory commission under the provisions of 10 C.F.R. part 50, appendix A, (1989).

(4) Airport hydrant fuel distribution systems.

(5) UST systems that have field-constructed tanks.

(d) Deferrals. Subpart D does not apply to any UST system that stores fuel solely for use by emergency

Annual Administrative Code Supplement
1998 – 2000 Edition

power generators.

(e) Prohibitions.

(1) Upon notification by the implementing agency, a person shall not deliver a regulated substance into any UST system if the system is not in compliance with these rules. Such notification may include verbal or written communication or an affixed written notification on the UST system.

(2) A person shall not tamper with, remove, or disregard written notification affixed to the UST system.

(3) Any UST system or practice that is not in compliance with these rules shall be considered to be in violation of these rules.

(4) An owner and operator shall not continue to use a UST system that is causing a release. If the release is from the piping, then the piping shall be emptied of any liquid product until repaired and tested or replaced. If the release is from the tank, or if the origin of the release cannot be determined, then the UST system shall be expeditiously emptied of all liquid product until repaired and tested or replaced.

(f) An implementing agency may order, at the expense of the owner, a tightness test of a UST system in accordance with the provisions of sections 280.43(c) and 280.44(b), the installation of dry well test holes, or the emptying of a UST system in accordance with the provisions of section 280.71 when there is reason to believe that the UST system is releasing a regulated substance.

(g) UST systems installed on or before January 3, 1991, in accordance with the provisions of 40 C.F.R. part 280, (1988), the United States environmental protection agency UST rules, shall be deemed to be in compliance with new UST system requirements.

(h) A person may request a variation of the application of a rule by applying to the department with a satisfactory explanation of why compliance is not possible. If the requested variation involves a substantive rule as opposed to a procedural rule, such as time deadlines, then the department shall notify affected state and local agencies of the nature of, and the reasons for, the request and consider any input provided within 10 days of receipt of the notice by affected state and local agencies. The department may make a variation upon finding that the variation does not result in an increased hazard to life, property, or the environment. The findings shall be transmitted to the person requesting the variation and shall be maintained at the facility.

(i) A person aggrieved by a final decision of the department on a request for variance may appeal to the circuit court within 21 days of the decision.

(j) All UST systems shall comply with the provisions of R 29.4103 to R 29.4104 and R 29.4201 to R 29.4319 of the Michigan Administrative Code. These rules shall supersede any conflicting provision of R 29.4103 to R 29.4101 and R 29.4201 to R 29.4319 of the Michigan Administrative Code.

(k) UST systems installed on or before the effective date of these amendatory rules in accordance with the provisions of R 29.2101 through R 29.2169 then in effect shall be deemed to be in compliance with these amendatory rules.

History: 1990 MR 12, Eff. Jan. 3, 1991; 1994 MR 6, Eff. June 30, 1994; 1998 MR 12, Eff. Dec. 30, 1998.

Editor's note: Pursuant to section 56 of Act No. 306 of the Public Acts of 1969, as amended, being S24.256 of the Michigan Compiled Laws, this rule is being published at the request of the department to correct an obvious error. Three references in section 280.10(j) were corrected from "R 29.2301 to R 29.2430" to "R 29.4101 to R 29.4504."

Editor's note: Pursuant to section 56 of Act No. 306 of the Public Acts of 1969, as amended, being S24.256 of the Michigan Compiled Laws, this rule is being published at the request of the department to correct an obvious error. Three references in section 280.10(j) were corrected from "R 29.2301 to R 29.2430" to "R 29.4101 to R 29.4504."

History: 1990 MR 12, Eff. Jan. 3, 1991; 1994 MR 6, Eff. June 30, 1994; 1998 MR 12, Eff. Dec. 30, 1998.

R 29.2105

Source: 1990 AACS.

R 29.2107 Definitions.

Rule 7. Section 280.12 is amended to read as follows:

Section 280.12.

"Aboveground release" means any release to the surface of the land or to surface water. This includes, but is

Annual Administrative Code Supplement
1998 - 2000 Edition

not limited to, releases from the aboveground portion of an UST system and aboveground releases associated with overfills and transfer operations as the regulated substance moves to or from an UST system. "Active UST system" means a UST system that has been in use within the past 12 months. "Ancillary equipment" means any devices including, but not limited to, such devices as piping, fittings, flanges, valves, and pumps used to distribute, meter, or control the flow of regulated substances to and from an UST. "Approved" means acceptable to the department, unless specifically indicated otherwise in the rule. "Belowground release" means any release to the subsurface of the land or to groundwater. This includes releases such as those from the belowground portions of an underground storage tank system and belowground releases associated with overfills and transfer operations as the regulated substance moves to or from an underground storage tank.

"Beneath the surface of the ground" means beneath the ground surface or otherwise covered with earthen materials.

"Cathodic protection" is a technique to prevent corrosion of a metal surface by making that surface the cathode of an electrochemical cell. For example, a tank system can be cathodically protected through the application of either galvanic anodes or impressed current.

"Cathodic protection tester" means a person who can demonstrate an understanding of the principles and measurements of all common types of cathodic protection systems as applied to buried or submerged metal piping and tank systems and who has education and experience in soil resistivity, stray current, structure-to-soil potential, and component electrical isolation measurements of buried metal piping and tank systems. The person shall be certificated as being qualified by the national association of corrosion engineers (NACE) international, steel tank institute (STI), or any other organization that is acceptable to the department.

"CERCLA" means the comprehensive environmental response, compensation, and liability act of 1980, as amended, 42 U.S.C. § 9601 et seq.

"Compatible" means the ability of two or more substances to maintain their respective physical and chemical properties upon contact with one another for the design life of the tank system under conditions likely to be encountered in the UST.

"Connected piping" means all underground piping, including valves, fittings, joints, flanges, and flexible connectors attached to a tank system, through which regulated substances flow. For the purpose of determining how much piping is connected to any individual UST system, the piping that joins 2 UST systems shall be allocated equally between the systems.

"Consumptive use," with respect to heating oil, means consumed on the premises.

"Corrosion expert" means a person who, by reason of thorough knowledge of the physical sciences and the principles of engineering and mathematics acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks. The person shall be certificated as being qualified by the NACE international as a senior corrosion technologist, a cathodic protection specialist, or a corrosion specialist or be a registered professional engineer who has certification or licensing that includes education and experience in corrosion control of buried or submerged metal piping systems and metal tanks.

"Deminimis concentration." A UST meets the requirements of exclusion (xv) for deminimis concentration of regulated substances, under the definition of "UST system," if both of the following conditions are met:

(i) The concentration of a regulated substance in a UST system, when mixed with a nonregulated substance, is less than 110 gallons of regulated substance when the storage tank is full.

(ii) The UST system, of any size or capacity, contains less than the reportable quantity of hazardous substance or substances in the product stored, as identified in the United States environmental protection agency Table 302.4 list of hazardous substances and reportable quantities, when the storage tank is full.

"Deminimis quantity" means that the total quantity of a hazardous substance mixed with petroleum in a full UST is less than the reportable quantity for the substance as specified on the CERCLA list. This does not apply to motor fuel additives and blends that are added at the refinery or shipped via pipeline with the finished product, or both.

"Department" means the department of environmental quality.

"Dielectric material" means a material that does not conduct direct electrical current. Dielectric coatings are used to electrically isolate UST systems from the surrounding soils. Dielectric fittings are used to electrically isolate portions of the UST system, for example, the tank from piping.

Annual Administrative Code Supplement
1998 – 2000 Edition

"Director" means the director of the department.

"Electrical equipment" means underground equipment that contains dielectric fluid that is necessary for the operation of equipment such as transformers and buried electrical cable.

"Excavation zone" means the volume containing the tank system and backfill materials bounded by the ground surface, walls, and placed at the time of installation.

"Existing tank system" means a tank system used to contain an accumulation of regulated substances or for which installation is considered to have commenced if the owner or operator has obtained all federal, state, and local approvals or permits necessary to begin physical construction of the site or installation of the tank system and either a continuous on-site physical construction or installation program has begun or the owner operator has entered into contractual obligations - that cannot be canceled or modified without substantial loss. These obligations include the physical construction at the site or installation of the tank system to be completed within a reasonable time.

"Farm tank" means a tank located on a tract of land devoted to the production of crops or raising animals, including fish, and associated residences and improvements. A farm tank shall be located on the farm property.

"Farm" includes fish hatcheries, rangeland, and nurseries that have growing operations.

"Field-constructed tank" means a tank which has a capacity of more than 50,000 gallons and which is constructed on-site.

"Flow-through process tank" means a tank that forms an integral part of a production process through which there is a steady, variable, recurring, or intermittent flow of materials during the operation of the process and the tank is utilized to carry out or control the heating, cooling, mixing, blending, separating, metering, or chemical action of materials. The processing is done on a regular basis and it is the primary function of the tank. Flow-through process tanks do not include tanks used for the storage of materials before their introduction into the production process or for the storage of finished products or by-products from the production process or tanks that are only used to recirculate materials.

"Free product" means a regulated substance that is present as a non-aqueous phase liquid (for example, liquid not dissolved in water).

"Gathering lines" means any pipeline, equipment, facility, or building used in the transportation of oil or gas during oil or gas production or gathering operations.

"Hazardous substance UST system" means an underground storage tank system that contains a hazardous substance defined in section 101(14) of the comprehensive environmental response compensation and liability act of 1980, 42 U.S.C. 9601, (but not including waste under subtitle C) or any mixture of such substances and petroleum, unless the mixture is a petroleum product.

"Heating oil" means petroleum that is no. 1, no. 2, no. 4-light, no. 4-heavy, no. 5-light, no. 5-heavy, and no. 6 technical grades of fuel oil; other residual fuel oils, including navy special fuel oil and bunker C; and other fuels when used as substitutes for one of these fuel oils. Heating oil is typically used in the operation of heating equipment, boilers, or furnaces.

"Hydraulic lift tank" means a tank holding hydraulic fluid for a closed-loop mechanical system that uses compressed air or hydraulic fluid to operate lifts, elevators, and other similar devices.

"Implementing agency" means the department or a local unit of government delegated authority under Part 211 of Act No. 451 of the Public Acts of 1994, as amended, being § 324.21101 et seq. of the Michigan Compiled Laws.

"Integral secondary containment system" means a tank or piping system that has the primary containment tank or piping system fully jacketed by an external, 360-degree, unbonded, nonmetallic material, that provides for external corrosion protection, liquid interstitial space communication and monitoring, and product compatibility to contain a release from the primary containment tank or piping system. The jacketing material for the tank shall be a minimum of 100 mils in thickness. The integral secondary containment system shall be acceptable to the department.

"In use" means that an underground storage tank or underground storage tank system contains more than 2.5 centimeters (1 inch) of a regulated substance.

"Liquid trap" means sumps, well cellars, and other traps used in association with oil and gas production, gathering, and extraction operations, including gas production plants, for the purpose of collecting oil, water, and other liquids. These liquid traps may temporarily collect liquids for subsequent disposition or

Annual Administrative Code Supplement
1998 - 2000 Edition

reinjection into a production or pipeline stream or may collect and separate liquids from a gas stream.

"Local unit of government" means a city, village, township, county, or governmental authority or any combination of cities, villages, townships, counties, or governmental authorities.

"Maintenance" means the normal operational upkeep to prevent an underground storage tank system from releasing product.

"Motor fuel" means petroleum or a petroleum-based substance which is motor gasoline, aviation gasoline, no. 1 or no. 2 diesel fuel, or any grade of gasohol and which is typically used in the operation of a motor vehicle.

"New tank system" means a tank system which will be used to contain an accumulation of regulated substances and for which installation has commenced after December 22, 1988. See also "existing tank system".

"Noncommercial purposes," with respect to motor fuel, means, not for resale.

"On the premises where stored," with respect to heating oil, means UST systems located on the same property where the stored oil is used.

"Operational life" means the period beginning when installation of the tank system has commenced until the time the tank system is properly closed under subpart G.

"Operator" means a person who is presently, or was at the time of a release, in control of, or responsible for, the operation of an underground storage tank system.

"Out of service" (see definition of "out of use").

"Out of use" means that an underground storage tank system is not in use.

(See definition of "in use"). The system shall be reported as either temporarily closed or permanently closed.

"Overfill release" means a release that occurs when a tank is filled beyond its capacity and results in a discharge of the regulated substance into the environment.

"Owner" means a person who holds, or at the time of a release held, a legal, equitable, or possessory interest of any kind in an underground storage tank system or in the property on which a UST system is located, such as, a trust, vendor, vendee, lessor, or lessee. However, "owner" does not include a person or a regulated financial institution acting in a fiduciary capacity that, without participating in the management of an underground storage tank system and without being otherwise engaged in petroleum production, refining, or marketing relating to the underground storage tank system, holds indicative of ownership primarily to protect the person's or the regulated financial institution's security interest in the underground storage tank system or the property on which it is located or to implement the terms of a trust agreement.

"Person" means any of the following:

- (a) An individual.
- (b) A partnership.
- (c) A joint venture.
- (d) A trust.
- (e) A firm.
- (f) A joint stock company.
- (g) A corporation, including a government corporation.
- (h) An association.
- (i) A local unit of government.
- (j) A commission.
- (k) The state.
- (l) A political subdivision of a state.
- (m) An interstate body.
- (n) The federal government.
- (o) A political subdivision of the federal government.
- (p) Any other legal entity.

"Petroleum UST system" means an underground storage tank system that contains petroleum or a mixture of petroleum that has additives and de minimis quantities of other regulated substances. The systems include those containing any of the following:

- (a) Motor fuels.
- (b) Jet fuels.
- (c) Distillate fuel oils.

Annual Administrative Code Supplement
1998 - 2000 Edition

(d) Residual fuel oils.

(e) Lubricants.

(f) Used oils.

"Pipe" or "piping" means a hollow cylinder or tubular conduit that is constructed of nonearthen materials and includes connected piping.

"Pipeline facilities," including gathering lines means new and existing pipe rights-of-way and any associated equipment, facilities, or buildings.

"Public water supply" has the same meaning as defined in Act No. 399 of the Public Acts of 1976, as amended, being § 325.1001 et seq. of the Michigan Compiled Laws, and rules promulgated under Act No. 399 of the Public Acts of 1976.

"Regulated substance" means either of the following:

(a) A substance defined in section 101(14) of title I of the comprehensive environmental response, compensation and liability act of 1980, Public Law 96-510, 42 U.S.C. § 9601 et seq., but not including a substance regulated as a hazardous waste under subtitle C of the solid waste disposal act of 1965, title II of Public Law 89-272, as amended, 42 U.S.C. §§ 6921 to 6931 and 6933 to 6939b.

(b) Petroleum, including crude oil or any fraction of crude oil that is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute). Petroleum includes mixtures of petroleum that have de minimis quantities of other regulated substances and also includes petroleum-based substances comprised of a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading, or finishing, such as any of the following:

(i) Motor fuels.

(ii) Jet fuels.

(iii) Distillate fuel oils.

(iv) Residual fuel oils.

(v) Lubricants.

(vi) Petroleum solvents.

"Release" means any spilling, leaking, emitting, discharging, escaping, leaching, or disposing from an UST into groundwater, surface water, or subsurface soils.

"Release detection" means determining whether a release of a regulated substance has occurred from the UST system into the environment or into the interstitial space between the UST system and its secondary barrier or secondary containment around it.

"Repair" means to restore a tank or UST system component. Repairs that involve the replacement of more than 50% of the length of any underground piping between the tank and the dispenser at any 1 time shall be considered a replacement of the underground piping and shall meet the requirements of the new UST system underground piping in section 280.20(b).

"Residential tank" means a tank located on property used primarily for dwelling purposes.

"SARA" means the superfund amendments and reauthorization act of 1986, 42 U.S.C. § 9601 et seq. as amended by 1986 Pub. L. 99-499.

"Secondary containment," where required for a petroleum UST system, means at least a 330-degree double-walled tank or a 360-degree integral secondary containment system and, for piping, a 360-degree double-walled pipe or a 360-degree integral secondary containment system or other method of containment indicated in section 280.42(b)(5). Secondary containment systems shall meet the requirements of section 280.42(b)(1), (2), and (4).

"Septic tank" is a watertight covered receptacle designed to receive or process, through liquid separation or biological digestion, the sewage discharged from a building sewer. The effluent from such receptacle is distributed for disposal through the soil and settled solids and scum from the tank are pumped out periodically and hauled to a treatment facility.

"Storm-water or wastewater collection system" means piping, pumps, conduits, and any other equipment necessary to collect and transport the flow of surface water runoff resulting from precipitation or domestic, commercial, or industrial wastewater to and from retention areas or any areas where treatment is designated to occur. The collection of storm water and wastewater does not include treatment, except where incidental to conveyance.

"Surface impoundment" means a natural topographic depression, man-made excavation, or diked area

Annual Administrative Code Supplement
1998 – 2000 Edition

formed primarily of earthen materials, although it may be lined with man-made materials, that is not an injection well.

"Tank" means a stationary device designed to contain an accumulation of regulated substances and constructed of non-earthen materials, for example, concrete, steel, or plastic, that provide structural support.

"Underground area" means an underground room, such as a basement, cellar, shaft, or vault, providing enough space for physical inspection of the exterior of the tank situated on or above the surface of the floor.

"Underground release" means any belowground release.

"Underground storage tank system" or "UST system" or "tank system" means a tank or combination of tanks, including underground pipes connected to the tank or tanks or underground ancillary equipment containment systems, if any, which is, was, or may have been, used to contain an accumulation of regulated substances and the volume of which, including the volume of underground pipes connected to the tank or tanks, is 10% or more beneath the surface of the ground. An underground storage tank system does not include any of the following:

(i) A farm or residential tank which has a capacity of 1,100 gallons or less and which is used for storing motor fuel for noncommercial purposes.

(ii) A tank used for storing heating oil for consumptive use on the premises where the oil is stored.

(iii) A septic tank.

(iv) A pipeline facility, including gathering lines, regulated under either of the following:

(A) The natural gas pipeline safety act of 1968, Public Law 90-481, as amended, 49 U.S.C. appendix B § 1671 to 1677, 1679A to 1682, and 1683 to 1687.

(B) Sections 201 to 215 and 217 of the hazardous liquid pipeline safety act of 1979, as amended, title II of Public Law 96-129, 49 U.S.C. appendix B 2001.

(v) A surface impoundment, pit, pond, or lagoon.

(vi) A stormwater or wastewater collection system.

(vii) A flow-through process tank.

(viii) A liquid trap or associated gathering lines directly related to oil or gas production and gathering operations.

(ix) A storage tank situated in an underground area, such as a basement, cellar, mine, drift, shaft, or tunnel, if the storage tank is situated on or above the surface of the floor.

(x) Any pipes connected to a tank that is described in subparagraphs (i) to (ix) and (xi) to (xvi) of this paragraph.

(xi) An underground storage tank system holding hazardous wastes listed or identified under the provisions of subtitle C of the solid waste disposal act of 1965, title II of Public Law 89-272, as amended, 42 U.S.C. § 6921 to 6931 and 6933 to 6939b, or a mixture of the hazardous waste and other regulated substances.

(xii) A wastewater treatment tank system that is part of a wastewater treatment facility regulated under the provisions of section 307(b) of title III or section 402 of title IV of the federal water pollution control act of 1972, as amended, 33 U.S.C. § 1317 and 1342.

(xiii) Equipment or machinery that contains regulated substances for operational purposes, such as hydraulic lift tanks and electrical equipment tanks.

(xiv) An underground storage tank system that has a capacity of 110 gallons or less.

(xv) An underground storage tank system that contains a de minimis concentration of regulated substances.

Please see the definition of "de minimis concentration."

(xvi) An emergency spill or overflow containment underground storage tank system that is emptied within 10 days after use.

"Upgrade" means the addition or retrofit of some systems, such as cathodic protection, lining, or spill and overfill controls, to an existing tank system to improve the ability of an underground storage tank system to prevent the release of product.

"Wastewater treatment tank" means a tank that is designed to receive and treat an influent wastewater through physical, chemical, or biological methods.

"Wellhead protection area" means the surface and subsurface area which surrounds a water well or well field that supplies a public water supply and through which contaminants are reasonably likely to move toward and reach the water well or well field.

History: 1990 MR 12, Eff. Jan. 3, 1991; 1998 MR 12, Eff. Dec. 30, 1998.

Annual Administrative Code Supplement
1998 - 2000 Edition

R 29.2108 Testing methods.

Rule 8. Section 280.13 is deleted.

Section 208.13 Deleted.

History: 1990 MR 12, Eff. Jan. 3, 1991, 1998 MR 12, Eff. Dec. 30, 1998.

**SUBPART B. UST SYSTEMS; DESIGN, CONSTRUCTION, INSTALLATION, AND
NOTIFICATION**

R 29.2109 Performance standards for new UST systems.

Rule 9. Section 280.20 is amended to read as follows:

Section 280.20. (a) Tanks. Each tank shall be properly designed and constructed. Any portion of a tank which is underground and which routinely contains product shall be protected from corrosion as follows:

- (1) The tank shall be constructed of fiberglass-reinforced plastic.
- (2) The tank shall be constructed of steel and be cathodically protected in the following manner:
 - (i) The tank shall be coated with a suitable dielectric material.
 - (ii) Factory-installed or field-installed cathodic protection systems shall be designed by a corrosion expert.
 - (iii) Impressed current systems shall be designed to allow a determination of current operating status as required in section 280.31(c).
 - (iv) Cathodic protection systems shall be operated and maintained in accordance with section 280.31 or according to procedures acceptable to the department.
- (3) The tank shall be constructed of a steel-fiberglass-reinforced-plastic composite. The fiberglass reinforced plastic shall be a minimum of 100 mils thick.
- (4) Deleted.
- (5) The tank construction and corrosion protection shall be determined by the department to be designed to prevent the release or threatened release of any stored regulated substance in a manner that is at least as protective of human health and the environment as the protections specified in subdivisions (1) to (3) of this subsection.
- (b) Piping. All pressurized piping in contact with the ground shall be equipped with secondary containment as defined in section 280.12. Any piping that routinely contains regulated substances and is in contact with the ground shall be properly designed, constructed, and protected from corrosion in compliance with 1 of the following provisions:
 - (1) The piping shall be constructed of fiberglass-reinforced plastic.
 - (2) The piping shall be constructed of metal and be cathodically protected in the following manner:
 - (i) The piping shall be coated with a suitable dielectric material.
 - (ii) Field-installed cathodic protection systems shall be designed by a corrosion expert.
 - (iii) Impressed current systems shall be designed to allow a determination of current operating status as required in section 280.31(c).
 - (iv) Cathodic protection systems shall be operated and maintained in accordance with the provisions of section 280.31 or procedures acceptable to the department.
 - (v) Metallic secondary containment underground piping systems shall have corrosion protection as specified in subdivision (2)(i) to (iv) of this subsection.
 - (3) Deleted.
 - (4) The piping construction and corrosion protection shall be determined by the department to be designed to prevent the release or threatened release of any stored regulated substance in a manner that is at least as protective of human health and the environment as the protections specified in subdivisions (1) and (2) of this subsection.
- (c) The following provisions apply to spill and overfill prevention equipment:
 - (1) Except as provided in subdivision (2) of this subsection, to prevent spilling and overfilling associated with product transfer to the UST system, owners and operators shall use the following spill and overfill prevention equipment:
 - (i) Spill prevention equipment that will prevent the release of product to the environment when the transfer

Annual Administrative Code Supplement
1998 – 2000 Edition

hose is detached from the fill pipe, for example, a spill catchment basin.

(ii) Overfill prevention equipment for tanks that have a capacity of 4,000 gallons or less shall do 1 of the following:

(A) Automatically shut off flow into the tank when the tank is not more than 95% full.

(B) Alert the transfer operator when the tank is not more than 90% full by restricting the flow into the tank or by triggering a high-level alarm. For suction pump systems, a pressure regulator valve or other suitable device shall be installed in the suction piping if the flow restrictor causes a pressure buildup in the tank when activated.

(iii) Overfill prevention equipment for tanks that have a capacity of more than 4,000 gallon shall do 1 of the following:

(A) Restrict the flow from the delivery truck into the tank 30 minutes before overfill.

(B) Sound an audible alarm 1 minute before overfill.

(C) Automatically shut off the flow into the tank not less than 30 seconds before overfill.

(2) Owners and operators are not required to use the spill and overfill prevention equipment specified in subdivision (1) of this subsection if alternative equipment is used that is determined by the department to be at least as protective of human health and the environment as the equipment specified in subdivision (1)(i) or (ii) of this subsection.

(d) All tanks and piping shall be properly designed, constructed, installed, operated, and maintained in accordance with R 29.4101 et seq. of the Michigan Administrative Code. All of the following provisions shall also apply:

(1) Except at an active UST system location installed on or before January 3, 1991, a person shall not install a UST system unless the UST system, with or without secondary containment, is more than the following distances from the following items:

(i) Fifty feet from a single-family drinking water well, as defined in part 127 of Act No. 368 of the Public Acts of 1978, as amended, being § 333.12701 et seq. of the Michigan Compiled Laws, and rules promulgated under Act No. 368 of the Public Acts of 1978.

(ii) Seventy-five feet from a type IIb and III noncommunity public water well, as defined in Act No. 399 of the Public Acts of 1976, as amended, being § 325.1001 et seq. of the Michigan Compiled Laws, and rules promulgated under Act No. 399 of the Public Acts of 1976.

(iii) Two hundred feet from a type I community and type IIa noncommunity public water well, as defined in Act No. 399 of the Public Acts of 1976, as amended, being § 325.1001 et seq. of the Michigan Compiled Laws, and rules promulgated under Act No. 399 of the Public Acts of 1976, and from a public surface water intake.

(iv) Tanks may not be installed at a location where loads from adjacent structures of any kind can be transmitted to the tank. A structure or foundation of a structure shall not be erected or constructed within a minimum of 10 feet from any point on the tank surface unless footings extend to the bottom of the tank excavation.

(2) For an active UST system location that was installed on or before January 3, 1991, as specified in subdivision (1) of this subsection, a person shall not install a UST system without secondary containment, as defined in section 280.12, within any of the following distances of the following items:

(i) Fifty feet of a single-family drinking water well, as defined in part 127 of Act No. 368 of the Public Acts of 1978, as amended, being § 333.12701 et seq. of the Michigan Compiled Laws, and rules promulgated under Act No. 368 of the Public Acts of 1978.

(ii) Seventy-five feet of type IIb noncommunity or type III public drinking water wells, as defined in Act No. 399 of the Public Acts of 1976, as amended, being § 325.1001 et seq. of the Michigan Compiled Laws, and rules promulgated under Act No. 399 of the Public Acts of 1976.

(iii) Two hundred feet of type I community or type IIa noncommunity drinking water wells, as defined in Act No. 399 of the Public Acts of 1976, as amended, being § 325.1001 et seq. of the Michigan Compiled Laws, and rules promulgated under Act No. 399 of the Public Acts of 1976, and from a public surface water intake.

(3) A person shall not install a UST system, excluding the replacement of a UST system, without secondary containment, as defined in section 280.12, unless the UST system is more than the following distances from the following items:

(i) Three hundred feet from a single-family drinking water well, as defined in part 127 of Act No. 368 of the Public Acts of 1978, as amended, being § 333.12701 et seq. of the Michigan Compiled Laws, and rules

Annual Administrative Code Supplement
1998 - 2000 Edition

promulgated under Act No. 368 of the Public Acts of 1978.

(ii) Eight hundred feet from type IIb and III noncommunity drinking water wells, as defined in Act No. 399 of the Public Acts of 1976, as amended, being § 325.1001 et seq. of the Michigan Compiled Laws, and rules promulgated under Act No. 399 of the Public Acts of 1976.

(iii) Two thousand feet from a type I community and type IIa noncommunity drinking water wells, as defined in Act No. 399 of the Public Acts of 1976, as amended, being § 325.1001 et seq. of the Michigan Compiled Laws, and rules promulgated Act No. 399 of the Public Acts of 1976, and from a public surface water intake.

(4) The requirements of subdivisions (1), (2), and (3) of this subsection may be modified if a person can demonstrate, using hydrogeological study information satisfactory to the department, that the UST installation is, or is not, within the wellhead zone of influence.

(5) If the proposed location of a UST system presents an unacceptable risk of contamination to surface water, wetlands, or an aquifer, then the department may require that the UST system be located or use secondary containment, or both, so as to eliminate or minimize the danger of potential contamination or may disapprove a proposed UST installation.

(6) Holiday testing of composite tanks shall be performed on-site before installation, and holidays shall be repaired according to the manufacturer's recommendations.

(7) A double-wall UST system or a single-wall UST system that has integral secondary containment shall be designed to provide liquid communication through the interstitial space so that any release from the primary wall or any ingress (inflow) of groundwater through the outer wall can be detected in the interstitial space. These UST systems shall be tested as follows:

(i) The tank manufacturer must be able to demonstrate to the department that the requirements of this subdivision and subdivisions (1) to (6) of this subsection are met.

(ii) At the installation site for verifying the integrity of both the inner and the outer walls of the tank, the interstitial space shall be tested by a positive pressure of not less than 3 pounds per square inch gauge (psig) for a minimum of 1 hour. The entire exterior shall be checked for leaks with a suitable bubbling leak detection solution or by negative pressure (vacuum) of not less than 13 inches of mercury for a minimum of 12 hours, or 24 hours for tanks larger than 10,000 gallons, with a vacuum decrease of not more than 5 inches of mercury. If a hydrostatic test is chosen, then the interstitial space shall be dried after the testing, unless the liquid is part of a leak detection method for the tank that is acceptable to the department. All testing shall be conducted according to the manufacturer's recommendations.

(iii) At the installation site for verifying the integrity of both the inner and the outer walls of the underground piping, the primary piping shall be tested by a positive pressure of not less than 50 psig for a minimum of 1 hour and the secondary piping shall be tested by a positive pressure of not less than 5 psig for a minimum of 1 hour. The entire exterior shall be checked for leaks with a suitable bubbling leak detection solution.

(8) After December 22, 1998, a person shall not install a UST system, including the replacement of a UST system, without secondary containment, as defined in section 280.12, if the UST or proposed UST is located within an approved delineated wellhead protection area.

(9) The requirements of subdivision (8) of this subsection may be modified if a person can demonstrate, using hydrogeological information satisfactory to the department, that the UST installation would not present a hazard to a public water supply.

(10) In addition to all of the provisions in this section, new hazardous substance UST systems shall comply with the requirements of section 280.42(b).

(e) Certification of installation. All owners and operators shall ensure that 1 or more of the following methods of certification, testing, or inspection are used to demonstrate compliance with subsection(d) of this section by providing a certification of compliance on the UST registration form in accordance with section 280.22:

(1) The installer has been certified by the tank and piping manufacturer or the tank liner has been certified by the tank lining manufacturer.

(2) The installer has been certified or licensed by the department.

(3) The installation has been inspected and certified by a registered professional engineer who has education and experience in UST system installation.

(4) The installation has been inspected and approved by the implementing agency.

Annual Administrative Code Supplement
1998 - 2000 Edition

(5) The owner and operator have complied with another method for ensuring compliance with the provisions of subsection (d) of this section that is determined by the department to be at least as protective of human health and the environment as the protections specified in subsection (d) of this section.

History: 1990 MR 12, Eff. Jan. 3, 1991; 1998 MR 12, Eff. Dec. 30, 1998.

R 29.2111 Upgrading existing UST systems.

Rule 11. Section 280.21 is amended to read as follows:

Section 280.21. (a) Alternatives allowed. Except as specified in subsection (d) of this section, not later than December 22, 1998, all existing UST systems shall comply with 1 of the following requirements:

(1) New UST system performance standards under section 280.20.

(2) The upgrading requirements of subsections (b) to (e) of this section. Hazardous substance UST systems shall be upgraded to the new hazardous substance UST system requirements of section 280.20.

(3) Closure requirements under subpart G of these rules, including applicable requirements for corrective action under subpart F of these rules.

(b) Tank upgrading requirements. Steel tanks shall be upgraded to meet the provisions of section 280.20(d) and 1 of the following requirements:

(1) Interior lining. A tank may be upgraded once by internal lining if all of the following provisions are complied with:

(i) The lining is installed in accordance with the requirements of section 280.33 and within 10 years after lining and, every 5 years thereafter, the lined tank is internally inspected in accordance with paragraph (ii)(A) to (I) of this subdivision and found to be structurally sound with the lining still performing in accordance with the original design specifications.

(ii) After the tank is internally inspected and determined to be eligible for upgrading, the interior lining shall be applied in compliance with the american petroleum institute (API) recommended practice 1631 or the national leak prevention association (NLPA) standard 631 and shall be certified by the same methods specified in section 280.20(e). In addition, all of the following requirements shall be met:

(A) Personnel shall be certified by a national organization acceptable to the department or certified in nondestructive testing, level I competence, in accordance with the guidelines specified by the American society for nondestructive testing entitled "Recommended Practice No. SNT-TC-1A, Personnel Qualification and Certification in Nondestructive Testing," including being certified in administering training to, and examining and retesting, personnel for certification of tank entry, surface preparation, inspection, ultrasonic thickness gauging, manway closure, and testing.

(B) Equipment used for ultrasonic thickness gauging shall have a minimum measurement range of 0.050 inches to 2 inches and a minimum resolution of 0.002 inches.

(C) After the tank has been emptied, the internal tank surfaces shall be cleaned as required for the use of ultrasonic thickness gauging.

(D) For gauging measurement control, tank walls and heads shall be divided into sections. Measurements for tank walls shall be divided into 3-foot by 3-foot sections beginning at the fill end of the bottom of the tank and extending outward around the tank circumference and along the tank length. Any additional area of the tank wall that is less than 3 feet by 3 feet shall be measured and treated as an additional section. Measurement for tank heads shall divide the tank head into 4 equal divisions by establishing horizontal and vertical diameter lines as axes. Each division shall be divided into 3-foot by 3-foot sections beginning at the center point and extending outward on each axis line. Any additional area of the tank head that is less than 3 feet by 3 feet shall be measured and treated as an additional section.

(E) Section gauging. Thickness gauging measurements shall be taken in the center of each section of the tank wall and heads. Thickness readings of 75% or less of the original wall thickness as specified in underwriters laboratories standard 58 (UL 58) shall require further gauging as prescribed for readings or more than 75% of the original wall thickness as specified in UL 58 shall be reported as the average wall thickness for the section.

(F) Gauging section subdivisions. Sections that have a center gauge measurement of 75% or less than the original wall thickness as specified in UL 58 shall be subdivided into 9 equal subdivisions. Thickness

Annual Administrative Code Supplement
1998 - 2000 Edition

gauging for each of the subdivisions shall be taken at the center of each subdivision. The subdivision thickness readings shall then be averaged to get the average wall thickness for the section.

(G) Thin wall target area gauging. Areas that have a thickness gauging measurements that are less than 50% of the original wall thickness as specified in UL 58 shall each receive 8 additional readings. Four of the 8 readings shall be equally spaced readings and each of the 4 readings shall be at a 1 1/2 inch radius from the initial reading. The 4 other readings shall be equally spaced readings each at a 3-inch radius from the initial reading. The average of the 8 readings shall be reported as the average reading of the thin wall target area.

(H) Perforations. Perforations shall be identified and reamed to establish a minimum of 1/8 of an inch edge wall thickness before any repairs. Eight thickness measurements shall be taken around the perforation in the same pattern as described in subparagraph (G) of this paragraph. The 8 thickness measurements shall be averaged and the average shall be reported for the subdivision closest to the perforation.

(I) Average tank wall thickness. The average tank wall thickness shall be established by averaging all of the section thicknesses reported. Thickness gauge readings shall be reported on an ultrasonic thickness gauging report form that conforms to the requirements of subparagraphs (D) to (H) of this paragraph.

(J) Thin wall. The presence of any region that has less than 1/8 of an inch of metal due to internal or external corrosion or both internal and external corrosion requires that the tank be provided with an additional layer of lining material or have a 1/8 of an inch thick steel plate which has minimum dimensions of 8 inches by 8 inches and which is rolled to the contour of the tank and welded on all seams in a continuous manner covering the thin wall area of the tank.

(K) A tank is eligible for upgrade by lining only if the average wall thickness as described in subparagraph (I) of this paragraph was found to be more than 75% of the original wall thickness required under the UL 58 standard and if all of the following requirements are met:

(a) None of the perforations shall be larger than 1 inch in diameter, except under the gauging opening, where the perforation shall be not more than 2 1/2 inches in diameter.

(b) A tank shall not have more than 4 perforations that are 1/2 inch in diameter in any 1 square foot area of the tank internal surface.

(c) A tank shall not have more than 20 perforations that are 1/2 inch in diameter in any 500 square foot area. The total number of perforations shall not be more than 2 for every year of the age of the tank.

(L) A tank is not eligible for upgrade if it does not meet the requirements of subparagraph (K) of this paragraph before any repairs. A tank that fails to meet the eligibility requirements for upgrade is required to be replaced or permanently closed in compliance with subsection (a)(3) of this section.

(M) All internally inspected tanks that meet the upgrading requirements by internal lining shall be provided with a 1/4 inch thick steel striker plate which has minimum dimensions of 8 inches by 8 inches and which is rolled to the contour of the tank and welded on all seams in a continuous manner under the fill tube.

(N) Interior tank walls shall be abrasive blasted in accordance with the steel structures painting council (SSPC) standard SP 5 entitled "White Metal Blast Cleaning" and shall not have any perforations.

(O) A suspected release meeting the requirements of section 280.50 shall be reported if there are indications of a release or if perforations are found in the tank before the addition of tank lining.

(iii) All lining materials and procedures shall be approved by the department. Each lining manufacturer shall maintain and submit a current list of qualified applicators to the department. Lining thickness shall be 100-mil dry film thickness or greater.

(iv) The owner/operator shall notify the department of all tank linings not less than 15 days before any work is performed, unless the department is notified of and approves an emergency repair. Notification of the lining shall be on a form provided by the department. Lining shall be performed by a qualified applicator.

(v) The lining company shall provide the owner with a complete report of the tank evaluation, as well as the design, installation, and operational requirements of the lining system. The report shall be signed by the lining company responsible for the lining upgrade.

(2) Cathodic protection. A tank may be upgraded by cathodic protection if the cathodic protection system meets the requirements of section 280.20(a)(2)(ii), (iii), and (iv) and all of the following provisions are complied with:

(i) The integrity of the tank is ensured using 1 of the following methods:

(A) The tank has been installed for less than 10 years and has been monitored for the past 12 months for

Annual Administrative Code Supplement
1998 – 2000 Edition

releases using 1 of the release detection methods specified in section 280.43(d) to (h).

(B) The tank has been installed for less than 10 years and is assessed for corrosion holes by conducting 2 tightness tests that meet the requirements of section 280.43(c). The first tightness test shall be conducted before installing the cathodic protection system. The second tightness test shall be conducted between 3 and 6 months after the first operation of the cathodic protection system.

(C) The tank is internally inspected and assessed to ensure that the tank is structurally sound and free of internal corrosion and corrosion holes before installing the cathodic protection system. All personnel involved in the internal inspection related activities shall be qualified in accordance with subdivision (1)(ii)(A) of this subsection and shall conduct the ultrasonic thickness gauging in accordance with subdivision (1)(ii)(B) to (G) of this subsection, with the average wall thickness established by averaging all the section thicknesses reported. A tank is eligible for upgrade by cathodic protection alone if the average wall thickness is not less than 75% of the original wall thickness specified in the UL 58 standard.

(D) The tank is assessed to determine its eligibility for upgrade by cathodic protection by other means determined by the department to prevent releases in a manner that is at least as protective to human health and the environment as the protections specified in paragraph (i)(A) to (C) of this subdivision.

(ii) The corrosion expert responsible for the design and the installation of the cathodic protection system shall provide the owner with a complete report of all of the results of any corrosion protection investigations, as well as the design, installation, and operational requirements of the cathodic protection system. The report shall be signed by the corrosion expert.

(iii) All internally inspected tanks that meet the upgrading requirements by cathodic protection shall be provided with a 1/4 inch thick steel striker plate which is not less than 8 inches by 8 inches and which is rolled to the contour of the tank and welded on all seams in a continuous manner under the fill tube.

(iv) The owner/operator shall notify the department of all cathodic protection upgrades not less than 15 days before any work is performed, unless the department is notified of and approves an emergency repair.

Notification of cathodic protection upgrade shall be on a form provided by the department. Cathodic protection upgrade shall be performed under the direct supervision and instruction of a corrosion expert.

(v) A suspected release meeting the requirements of section 280.50 shall be reported when there are indications of a release, such as visual or olfactory presence of product in the soil, before the addition of cathodic protection.

(3) Internal lining simultaneously combined with cathodic protection. A tank may be upgraded by both internal lining and cathodic protection if all of the following provisions are complied with:

(i) Not more than 1 month is allowed between the lining and the installation of cathodic protection.

(ii) The lining is installed in accordance with the requirements of section 280.33 and subdivision (1)(ii) to (v) of this subsection.

(iii) Internal inspection requirements will be waived if the lining and the cathodic protection upgrade are done within 1 month of each other.

(iv) The cathodic protection system meets the requirements of subdivision (2) of this subsection.

(4) Other methods approved by the department.

(c) Piping upgrading requirements. Metal piping which routinely contains regulated substances and which is in contact with the ground shall be cathodically protected in accordance with the provisions of section 280.20(d) and shall meet the requirements of section 280.20(b)(2)(ii) to (v).

(1) Replacement of pressurized underground piping systems in contact with the ground shall include the installation of secondary containment as defined in section 280.12.

(2) The owner/operator shall notify the department, in writing, not less than 15 days before any underground piping upgrade or total replacement of an underground piping system, unless the department is notified of, and approves, an emergency replacement.

(d) Spill protection and overfill prevention equipment. Existing UST systems shall comply with spill protection equipment requirements not later than January 3, 1992. All existing UST systems shall comply with the new UST system overfill prevention equipment requirements specified in section 280.20(c).

History: 1990 MR 12, Eff. Jan. 3, 1991; 1998 MR 12, Eff. Dec. 30, 1998.

R 29.2113 Registration submittal requirements.

Annual Administrative Code Supplement
1998 - 2000 Edition

Rule 13. Section 280.22 is amended to read as follows:

Section 280.22. (a) Owners shall register the UST system under part 211 of Act No. 451 of the Public Acts of 1994, as amended, being § 324.21101 et seq. of the Michigan Compiled Laws, on forms provided by the department. All UST systems shall be registered and all fees paid before any UST is removed from the ground or closed in place under subpart G of these rules, unless written approval is obtained from the department. To be considered properly registered, new owners of existing UST systems shall register the UST system with the department within 30 days of ownership on a registration for underground storage tank form. New owners of a UST system who do not intend to use the UST to contain a regulated substance and who have not placed the UST temporarily out-of-service under subpart G of these rules shall empty the UST system within 45 days from acquiring ownership of the UST system.

If, however, the property has been condemned by the state or a local unit of government, then the state or local unit of government shall empty any underground storage tanks that are located on the property, within 45 days of taking possession. All tanks shall be emptied under section 280.71(b). Also, any change in tank status or any change in the information required on the form shall be reported to the department on the registration for underground storage tank form within 30 days of the change.

(b) A notice of proposed installation of underground storage tank registration form provided by the department shall be submitted by the owner to the department 45 days before installation of the UST system. The notice of UST installation form shall include all of the following information:

(1) A plot map showing the distances of all of the following within 25 feet of the UST system:

(i) The location of buildings, public roadways, and railroad main lines.

(ii) The location of property lines and easements.

(iii) The location of existing aboveground storage tanks and the location of existing and proposed underground storage tanks, piping, and dispensers.

(iv) The location of surface water and wetlands.

(2) The location of all drinking water wells within 300 feet of the UST system.

(3) The location of type IIb and III wells, as defined in Act No. 399 of the Public Acts of 1976, as amended, being § 325.1001 et seq. of the Michigan Compiled Laws, within 800 feet of the UST system.

(4) The location of type I and IIa wells, as defined in Act No. 399 of the Public Acts of 1976, as amended, being § 325.1001 et seq. of the Michigan Compiled Laws, and surface water intakes within 2,000 feet of the UST system.

(5) The location of any delineated wellhead protection area that is approved in compliance with the state of Michigan wellhead protection program.

(6) The construction materials of the tank and piping.

(7) The dimensions and capacity of each tank.

(8) The name of the regulated substance to be stored.

(9) A diagram of the UST system.

(10) The manufacturer and part number of all components of the UST system.

(c) Upon receipt of the proposed installation registration form, the department may issue a review report within 30 days. If the review report is not issued within 30 days, then the UST system may be brought into use according to the submitted registration form and shall be in accordance with these rules. The implementing agency shall be notified not less than 7 calendar days before installation of the UST system. The implementing agency shall inspect the installation within 2 working days of the scheduled installation date, excluding Saturdays, Sundays, and holidays, and shall certify the installation if the requirements of these rules have been met.

If the inspection is not made within 2 working days of the installation date, excluding Saturdays, Sundays, and holidays, then the UST system shall be covered from sight and a notarized affidavit shall be submitted by the owner to the implementing agency attesting to the fact that the installation complied with the applicable rules under section 280.20(e). The UST system shall not be brought into use until it has been registered with the department on the registration for underground storage tank form under part 211 of Act No. 451 of the Public Acts of 1994, as amended, being § 324.21101 et seq. Of the Michigan Compiled Laws. Upon request, all UST information submitted to the department for review shall be returned within 30 working days after the UST system has been brought into use. The information may be marked "CONFIDENTIAL - DO NOT COPY" at the time it is submitted.

Annual Administrative Code Supplement
1998 - 2000 Edition

(d) Any owner or operator who meets the requirements of a designated clean corporate citizen in R 336.2401 to R 336.2420 shall be entitled to an expedited review report by the department to complete the review process.

(e) An owner who is required to register a UST system under subsection (a) of this section may register several tanks using 1 registration for underground storage tank form, but an owner who owns tanks located at more than 1 place of operation shall file a separate form for each separate place of operation.

(f) For underground storage tank forms required to be submitted under subsection (a) of this section, an owner shall provide all of the applicable information for each tank registered. For each tank installed or upgraded after December 22, 1988, an owner shall also provide all of the information required in the certification of compliance section of the form.

(g) All owners and operators of new UST systems shall certify, in the registration for underground storage tank form, compliance with all of the following requirements:

(1) The installation of tanks and piping under section 280.20(e).

(2) Cathodic protection of steel tanks and piping under section 280.20(a) and (b).

(3) The financial responsibility rules under subpart H of these rules.

(4) Release detection under sections 280.41 and 280.42.

(h) An owner of a new UST system shall ensure that the installer certifies, in the registration form, that the methods used to install the tanks and piping comply with the requirements in section 280.20(d).

(i) Any person who sells a tank intended to be used as an underground storage tank shall notify the purchaser of the tank of the owner's registration obligations under subsection (a) of this section.

(j) An owner of a UST system shall display proof of valid registration on the UST system or in the owner's place of business, or both, as required by the department. The proof of registration shall be provided by the department upon receipt of proper registration and the payment of fees.

History: 1990 MR 12, Eff. Jan. 3, 1991; 1998 MR 12, Eff. Dec. 30, 1998.

SUBPART C. GENERAL OPERATING REQUIREMENTS

R 29.2115 Operations and maintenance of corrosion protection.

Rule 15. Section 280.31 is amended to read as follows:

Section 280.31. All owners and operators of steel UST systems with corrosion protection must comply with the following requirements to ensure that releases due to corrosion are prevented for as long as the UST system is used to store regulated substances:

(a) All corrosion protection systems must be operated and maintained to continuously provide corrosion protection to the metal components of that portion of the tank and piping that routinely contain regulated substances and are in contact with the ground.

(b) All UST systems equipped with cathodic protection systems shall be inspected for proper operation by a qualified cathodic protection tester in accordance with the following requirements:

(1) Frequency. All cathodic protection systems shall be tested upon completion of underground piping and tank installation and backfilling, but before placement of any permanent or hard surface over the UST system.

Testing shall be done within 6 months of installation regardless of the surface over the UST system. Testing shall also be conducted every 3 years after the initial testing.

(2) Inspection criteria. The criteria that are used to determine that cathodic protection is performing adequately shall be specified by the corrosion engineer who designs the system. If the corrosion engineer does not specify criteria, then the criteria shall be as specified in NACE international recommended practice RP-02-85-94.

(c) UST systems with impressed current cathodic protection systems must also be inspected every 60 days to ensure the equipment is running properly.

(d) For UST systems using cathodic protection, records of the operation of the cathodic protection must be maintained (in accordance with section 280.34) to demonstrate compliance with the performance standards in this section.

These records must provide the following:

(1) The results of the last 3 inspections required in paragraph (c) of this section; and (2) The results of

Annual Administrative Code Supplement
1998 – 2000 Edition

testing from the last 2 inspections required in paragraph (b) of this section.

(e) For galvanic anode systems equipped with an approved buried copper-copper sulfate reference electrode that can be read at a surface test station, the inspection may be made using a test measurement device designed for tank owners/operators not meeting the cathodic protection tester definition. The owner/operator shall be trained in the testing procedure and shall be familiar with the testing specifications of the galvanic anode system. Tests shall be made in accordance with the requirements of subsection (b) of this section.

(f) Cathodic protection testing is not required for the following:

(1) A composite tank which meets the requirements of section 280.20(a)(3) and which is equipped with galvanic anodes installed by the tank manufacturer.

The tank shall be installed and tested in accordance with section 280.20(d)(6).

(2) A 360-degree double-wall steel tank equipped with galvanic anodes.

Interstitial monitoring of the tank shall be conducted in accordance with section 280.42(b)(1),(2), and (4).

(g) Another method determined by the department to be equally protective.

History: 1990 MR 12, Eff. Jan. 3, 1991; 1998 MR 12, Eff. Dec. 30, 1998.

R 29.2117 Repairs.

Rule 17, Section 280.33 is amended to read as follows:

Section 280.33. (a) Alterations to UST systems for product compatibility, repairs, or upgrades shall be properly conducted in accordance with the provisions of sections 280.20(d) and 280.21(b) and (c).

(b) Repairs to fiberglass-reinforced plastic tanks shall be made in accordance with the provisions of section 280.20(d).

(c) Metal pipe sections and fittings that have released product as a result of corrosion or other damage shall be replaced. Fiberglass pipes and fittings that have released product shall be replaced or repaired in accordance with the manufacturer's specifications. The implementing agency may require that replacements or repairs be made where damage to pipe sections or fittings is discovered and presents a significant risk of release.

(d) Repaired or upgraded tanks and piping shall be tightness-tested in accordance with the provisions of sections 280.43(c) and 280.44(b) within 30 days after the date of the completion of the repair or upgrade. Exceptions may be made to this requirement if the repaired or upgraded portion of the tank system is monitored monthly for release detection in accordance with a method specified in section 280.43(d) to (h) or if another test method is used that is determined by the department to be at least as protective of human health and the environment as the protections specified in sections 280.43(c) and 280.44(b).

(e) Within 6 months after the repair of any cathodically protected UST system, the cathodic protection system shall be tested in accordance with section 280.31(b) and (c) to ensure that it is operating properly.

(f) UST system owners and operators must maintain records of each repair for the remaining operating life of the UST system that demonstrate compliance with the requirements of this section.

History: 1990 MR 12, Eff. Jan. 3, 1991; 1998 MR 12, Eff. Dec. 30, 1998.

R 29.2119 Reporting and recordkeeping.

Rule 19, Section 280.34 is amended to read as follows:

Section 280.34. (a) Reporting. Owners or operators shall submit all of the following information to the department:

(1) Deleted.

(2) Reports of all releases, including suspected releases (section 280.50), spills and overfills (section 280.53), and confirmed releases (section 280.61).

(3) The corrective action planned or taken that meets the requirements of part 213, of Act No. 451 of the Public Acts of 1994, as amended, being §324.21301 et seq. of the Michigan compiled Laws, including all of the following information:

(i) Initial abatement measures.

(ii) Initial site characterization.

(iii) Free product removal.

Annual Administrative Code Supplement
1998 – 2000 Edition

- (iv) Investigation of soil and groundwater cleanup.
 - (v) Corrective action plan.
 - (4) A notification before permanent closure or change in service (section 280.71).
 - (b) Recordkeeping. Owners and operators shall maintain the following information:
 - (1) Deleted.
 - (2) Documentation of operation of corrosion protection equipment (section 280.31).
 - (3) Documentation of UST system repairs (section 280.33(f)).
 - (4) Recent compliance with release detection requirements (section 280.45).
 - (5) Results of the site assessment conducted at permanent closure (section 280.74).
 - (c) Availability and maintenance of records. Owners and operators shall keep required records under either of the following provisions:
 - (1) At the UST site and have the records immediately available for inspection by the implementing agency.
 - (2) At a readily available alternative site and provide the records for inspection to the implementing agency upon request. In the case of permanent closure or change-in-service records required under section 280.74, owners and operators are also provided with the additional alternative of mailing closure records to the department if they cannot be kept at the site or at an alternative site as indicated in subsection (b) of this section.
- History: 1990 MR 12, Eff. Jan. 3, 1991; 1998 MR 12, Eff. Dec. 30, 1998.

SUBPART D. RELEASE DETECTION

R 29.2121 General requirements for all UST systems.

Rule 21. Section 280.40 is amended to read as follows:

Section 280.40. Upon purchase or acquisition of an existing UST system and upon request by the department, the owners and operators of the system shall provide the department with not less than 2 years of leak detection records as required by section 280.45. If the records are unavailable, then the owner/operator shall conduct tightness testing as provided in sections 280.43(c) and 280.44(b).

(a) Owners and operators of new and existing UST systems shall provide a method, or combination of methods, of release detection that is in compliance with all of the following provisions:

(1) Can detect a release from any portion of the tank and the connected underground piping that routinely contains product.

(2) Is installed, calibrated, operated, and maintained in accordance with the manufacturer's instructions, including routine maintenance and service checks for operability or running condition.

(3) Meets the performance requirements in section 280.43 or 280.44, with any performance claims and their manner of determination described in writing by the equipment manufacturer or installer. In addition, except for methods permanently installed before December 22, 1990, a release detection method shall be capable of detecting the leak rate or quantity specified for the method in section 280.43(b), (c), and (d) or section 280.44(a) and (b) with a probability of detection of 0.95 and a probability of false alarm of 0.05.

(b) If a release detection method operated in accordance with the performance standards in sections 280.43 and 280.44 indicates a release may have occurred, then owners or operators shall notify the department in accordance with the provisions of subpart E of these rules.

(c) Owners and operators of all UST systems requiring registration under section 280.22 shall comply with this subpart by the year listed in the following table:

SCHEDULE FOR PHASE IN OF RELEASE DETECTION

Year system was installed	Year when release detection is required (by December 22 of the year indicated)				
	1989	1990	1991	1992	1993
Before 1965 date unknown	RD	P			
1965-69	P/RD				
1970-74	P	RD			

Annual Administrative Code Supplement
1998 - 2000 Edition

1975-79	P	RD	
1980-88	P		RD

For new tanks after December 22, 1988, immediately upon installation.

P=Shall begin release detection for all pressurized piping in accordance with section 280.41(b)(1) or section 280.42(b)(4) as applicable for the substance stored.

RD=Shall begin release detection for tanks and suction piping in accordance with section 280.41(a), section 280.41(b)(2), or section 280.42 as applicable for the substance stored.

(d) The owners and operators of an existing UST system that has not complied with the requirements of this subpart shall complete the closure procedures in subpart G of these rules.

History: 1990 MR 12, Eff. Jan. 3, 1991; 1998 MR 12, Eff. Dec. 30, 1998.

R 29.2122 Requirements for petroleum UST systems.

Rule 22. Section 280.41 is amended to read as follows:

Section 280.41. Owners and operators of petroleum UST systems shall provide release detection for tanks and piping as follows:

(a) Tanks. Tanks shall be monitored at least once every 30 days for releases using 1 of the methods listed in section 280.43(d) to (h), except as follows:

(1) UST systems that meet the performance standards in section 280.20 or 280.21 and the monthly inventory control requirements in section 280.43(a) or (b) shall use tank tightness testing conducted in accordance with section 280.43(c) at least once every 5 years until December 22, 1998, or until 10 years after the tank is installed or upgraded under section 280.21(b), whichever is later. The initial tank tightness test shall be conducted before the initial use of the leak detection method for the tank system, and the following tank tightness tests shall each be within 5 years from the preceding test.

(2) UST systems that do not meet the performance standards in section 280.20 or 280.21 may use monthly inventory controls conducted in accordance with section 280.43(a) or (b) and annual tank tightness testing conducted in accordance with section 280.43(c) until December 22, 1998, when the tank shall be upgraded under section 280.21 or permanently closed under section 280.71.

The initial tank tightness test shall be conducted before the initial use of the leak detection method for the tank system, and the following tank tightness tests shall each be within 1 year from the preceding test.

(3) A tank which has a capacity of 550 gallons or less and which is not used for motor fueling may use weekly tank gauging conducted in accordance with section 280.43(b).

(b) Piping. Underground piping that routinely contains regulated substances shall be monitored for releases in a manner that meets 1 of the following requirements:

(1) Pressurized piping. Underground piping that conveys regulated substances under pressure shall be in compliance with both of the following requirements:

(i) Be equipped with an automatic line leak detector in accordance with section 280.44(a).

(ii) Have an annual line tightness test conducted in accordance with section 280.44(b)(1) or have monthly monitoring conducted in accordance with section 280.44(c).

(2) Suction piping. Underground piping that conveys regulated substances under suction shall have a line tightness test conducted at least once every 3 years and in accordance with section 280.44(b)(1), use a liquid sensor conducted in accordance with subdivision (3) of this subsection, or use an applicable tank method conducted in accordance with section 280.44(c). Release detection is not required for suction piping that is designed and constructed to meet all of the following standards:

(i) The belowgrade piping operates at less than atmospheric pressure.

(ii) The belowgrade piping is sloped so that the contents of the pipe will drain back into the storage tank if the suction is released.

(iii) Only 1 check valve is included in each suction line.

(iv) The check valve is located directly below, and as close as practical to, the suction pump.

(v) A method is provided that allows compliance with paragraphs (ii) to (iv) of this subdivision to be readily determined.

(3) An underground pressurized or underground suction piping system which does not have an in-line leak

Annual Administrative Code Supplement
1998 - 2000 Edition

detector and which is equipped with secondary containment, including the sumps, as defined in section 280.12, may use interstitial monitoring to satisfy release detection requirements for piping if conducted in accordance with all of the following provisions:

- (i) Liquid sensors shall be capable of detecting both regulated substances and water.
- (ii) Secondary containment, including sumps, shall be maintained liquidtight and sealed from surface water runoff and subsurface water infiltration.
- (iii) The liquid sensors shall shut off the flow of product in the piping system and trigger an audible alarm unless a mechanical or electronic line leak detector installed in the primary piping would restrict the flow of product in the pipe.
- (iv) The liquid sensors shall be installed in every sump, including the tank manway, and along the piping run to the furthest remote dispenser at a location where the sensors will detect product or water flowing in the secondary pipe.

The pipe shall slope sufficiently towards the sensor.

(4) Pressurized piping systems equipped with line leak detectors capable of detecting less than 0.08 gallons per hour leak rate at normal operating pressure with the probability of detection of 0.95 and a probability of false alarm of 0.05 will not be required to have a line tightness test conducted in accordance with section 280.44(b)(1).

History: 1998 MR 12, Eff. Dec. 30, 1998.

R 29.2123 Requirements for hazardous substance UST systems.

Rule 23. Section 280.42 is amended to read as follows:

Section 280.42. Requirements for hazardous substance UST systems. Owners and operators of hazardous substance UST systems shall provide release detection that meets the following requirements:

(a) Release detection at existing UST systems shall meet the requirements for petroleum UST systems in 280.41. By December 22, 1998, all existing hazardous substance UST systems shall meet the release detection requirements for new systems in subsection (b) of this section.

(b) Release detection at new hazardous substance UST systems shall meet all of the following requirements:

(1) "Secondary containment system," as used in this section means a double-wall tank or integral secondary containment system which is compatible with the substance stored and which is designed, constructed, and installed to facilitate all of the following:

- (i) Contain regulated substances released from the tank system until they are detected and removed.
- (ii) Prevent the release of regulated substances to the environment at any time during the operational life of the UST system.
- (iii) Be checked for evidence of a release not less than once every 30 days.

(2) Double-wall tanks and integral secondary containment systems shall be designed, constructed, and installed to contain a release from any portion of the inner tank within the outer wall and to detect the failure of the inner and outer walls.

(3) Underground piping shall be equipped with secondary containment that satisfies the requirements of subdivision (1) of this subsection, which is double-wall piping or an integral secondary containment system. In addition, underground piping that conveys regulated substances under pressure shall be equipped with an automatic line leak detector or interstitial sensor in accordance with section 280.41(b)(3) and shall be installed to contain a release from any portion of the inner pipe within the outer wall and to detect the failure of the inner and outer wall.

(4) Other methods of release detection, such as external liners and vaults, may be used if owners and operators comply with all of the following provisions:

(i) Demonstrate to the department that an alternative method can detect a release of the stored substance as effectively as any of the methods allowed in section 280.43(b) to (h) can detect a release of petroleum.

(ii) Provide information to the department on effective corrective action technologies, health risks, and chemical and physical properties of the stored substance and the characteristics of the UST site.

(iii) Obtain approval from the department to use the alternative release detection method before the installation and operation of the UST syst.

History: 1990 MR 12, Eff. Jan. 3, 1991, 1998 MR 12, Eff. Dec. 30, 1998.

Annual Administrative Code Supplement
1998 - 2000 Edition

R 29.2125 Methods of release detection for tanks.

Rule 25. Section 280.43 is amended to read as follows:

Section 280.43. (a) Inventory control. Product inventory control, or another test of equivalent performance, shall be conducted monthly to detect a release of not less than 1.0% of flow-through plus 130 gallons on a monthly basis in the following manner:

- (1) Inventory volume measurements for regulated substance inputs, withdrawals, and the amount still remaining in the tank are recorded and computed each operating day.
- (2) The equipment and tank charts used are capable of measuring the level of product over the full range of the tank's height to the nearest 1/8 of an inch.
- (3) The regulated substance inputs are reconciled with delivery receipts by measurement of the tank inventory volume before and after delivery.
- (4) Deliveries are made through a drop tube that extends to within 6 inches of the tank bottom.
- (5) Product dispensing is metered and recorded within the local standards for meter calibration or an accuracy of 6 cubic inches for every 5 gallons of product withdrawn.
- (6) The measurement of any water level in the bottom of the tank is made to the nearest 1/8 of an inch not less than once a month.

(b) Manual tank gauging. Manual tank gauging shall meet all of the following requirements:

- (1) Each week, tank liquid level measurements are taken at the beginning and ending of a period of not less than 36 hours during which liquid is not added to or removed from the tank.
- (2) Level measurements are based on an average of 2 consecutive stick readings at both the beginning and ending of the period.
- (3) The equipment used is capable of measuring the level of product over the full range of the tank's height to the nearest 1/8 of an inch.
- (4) A leak is suspected and subject to the requirements of subpart E of these rules if the variation between the beginning and ending measurements exceeds the weekly or monthly standards in the following table:

Nominal Tank Capacity	Weekly Standard	Monthly Standard
	(1 test)	(average of 4 tests)
550 gallons or less	10 gallons	5 gallons
551 to 1,000 gallons	13 gallons	7 gallons
1,001 to 2,000 gallons	26 gallons	13 gallons

(5) Only a tank that has a nominal capacity of 550 gallons or less may use manual tank gauging as the sole method of release detection. A tank that has a nominal capacity of 551 to 2,000 gallons may use manual tank gauging in place of inventory control under subsection (a) of this section. A tank that has a nominal capacity of more than 2,000 gallons shall not use manual tank gauging to meet the requirements of this subpart, except in conjunction with an automatic tank gauging system in accordance with subsection (d)(2) of this section.

(6) A tank of any capacity that is used for motor vehicle fueling shall not use the manual tank gauging method to meet the requirements of this subpart.

(c) Tank tightness testing. Tank tightness testing, or another test of equivalent performance, shall be capable of detecting a 0.1 gallon-per-hour leak rate from any portion of the tank while accounting for the effects of thermal expansion or the contraction of the product, vapor pockets, tank deformation, evaporation or condensation, and the location of the water table. Unless a method is evaluated by a third party and certified as capable of testing manifolded tank systems, each tank in a manifolded tank system can be tested only if it can be isolated from all other tanks in the manifolded tank system and the siphons or other liquid transfer devices to the tank being tested are shut off. Testers shall be trained and certified by the manufacturer or vendor of the testing method and the testers' names shall appear on the qualified testers list provided by the manufacturer or vendor to the department. The department has the authority to disapprove any existing or future testing device or procedure if the requirements of this subsection cannot be met. The department has the authority to prohibit a person from performing tank tightness testing if the requirements of this subsection cannot be met.

Annual Administrative Code Supplement
1998 - 2000 Edition

(d) Automatic tank gauging.

(1) Equipment for automatic tank gauging that tests for the loss of product and conducts inventory control shall meet both of the following requirements:

(i) The automatic product level monitor test can detect a 0.2 gallon-per-hour leak rate from any portion of the tank that routinely contains product.

(ii) Inventory control, or another test of equivalent performance, is conducted in accordance with the requirements of subsection (a) of this section.

(2) For waste oil UST(s) and a non-motor fueling system of any size that do not meet the criteria of hazardous wastes listed or identified under the provisions of subtitle C of the solid waste disposal act of 1965, title II of

Public Law 89-272, as amended, 42 U.S.C. § 6921 to 6931 and 6933 to 6939b, automatic tank gauging equipment that tests for the loss of product by mass measurement probes and conducts inventory control is adequate as required by this section if it meets both of the following requirements:

(i) The automatic product level monitor test can detect a 0.2 gallon-per-hour leak rate from any portion of the tank that routinely contains product.

(ii) Manual tank gauging is conducted in accordance with the requirements of subsection (b)(1) and (2) of this section.

(3) Each tank in a manifolded tank system shall be provided with its own automatic tank gauging probe that meets the requirements of subdivisions (1) and (2) of this subsection and shall be isolated from all other tanks during the testing process.

(e) Vapor monitoring. Prior approval by the department is required for the utilization of vapor monitoring as the primary method of release detection for an underground storage tank or the underground piping system, or both, to verify that all of the following conditions are met:

(1) The materials used as backfill are sufficiently porous, for example, gravel, sand, or crushed rock to readily allow diffusion of vapors from releases in the excavation area.

(2) The stored regulated substance, or a tracer compound placed in the tank system, is sufficiently volatile, for example, gasoline, to result in a vapor level that is detectable by the monitoring devices located in the excavation zone in the event of a release from the tank.

(3) The measurement of vapors by the monitoring device is not rendered inoperative by the groundwater, rainfall, or soil moisture or other known interferences so that a release could go undetected for more than 30 days.

(4) The level of background contamination in the excavation zone will not interfere with the method used to detect releases from the tank.

(5) The vapor monitors are designed and operated to detect any significant increase in concentration above background of the regulated substance stored in the tank system, a component or components of that substance, or a tracer compound placed in the tank system.

(6) In the UST excavation zone, the site is assessed to ensure compliance with the requirements in subdivisions (1) to (4) of this subsection and to establish the number and positioning of monitoring wells that will detect releases within the excavation zone from any portion of the tank that routinely contains project.

(7) Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering. A monitoring well shall have a liquidtight cover and not less than 3-foot deep annular seal to prevent surface water runoff and subsurface water infiltration into the monitoring well.

(f) Groundwater monitoring. Prior approval by the department is required for the utilization of groundwater monitoring as the primary method of release detection for an underground storage tank or the underground piping system, or both, to verify that all of the following conditions are met:

(1) The regulated substance stored is immiscible in water and has a specific gravity of less than 1.

(2) Groundwater is not more than 20 feet from the ground surface and the hydraulic conductivity of the soil or soils between the UST system and the monitoring wells or devices is not less than 0.01 cm/sec. The soil shall consist of gravel, coarse to medium sands, coarse silts, or other permeable materials.

(3) The slotted portion of the monitoring well casing shall be designed to prevent migration of natural soils or filter pack into the well and to allow entry of regulated substance on the water table into the well under both high and low groundwater conditions.

(4) Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering. A

Annual Administrative Code Supplement
1998 – 2000 Edition

monitoring well shall also have a liquidtight cover to prevent surface water runoff from entering the monitoring well and an annular seal extending from the ground surface to the top of the filter pack. All well construction and abandonment shall comply with part 127 of Act No. 368 of the Public Acts of 1978, as amended, being § 333.12701 et seq. of the Michigan Compiled Laws, and rules promulgated under Act No. 368 of the Public Acts of 1978.

(5) Monitoring wells or devices intercept the excavation zone or are as close to it as is technically feasible.

(6) The continuous monitoring devices in accordance with subsection (e) of this section or manual methods used through visual or olfactory observation can detect the presence of the regulated substance stored in the tank system, a component or components of the substance, or a tracer compound placed in the tank system.

(g) Interstitial monitoring. Interstitial monitoring for double-wall UST systems and integral secondary containment systems shall be performed with a testing method which is conducted in accordance with the manufacturer's recommendation and which can detect a release through the inner wall in any portion of the tank that routinely contains product. A test may be conducted by positive or negative pressure, by a hydrostatic test that utilizes a liquid in the interstice, or by a continuous monitoring sensor. If a sensor is used, the sensor shall be capable of detecting the product stored and water, and the interstice shall be sealed from surface water runoff and subsurface water infiltration.

(h) Other methods. The department may approve another method of monthly monitoring if a person can demonstrate, by clear and convincing evidence, that the method can detect a release as effectively as any of the methods allowed in subsections (d) to (g) of this section. In comparing methods, the department shall consider the size of the release that the method can detect and the frequency and reliability with which it can be detected. A detection capability of 0.2 gallons per hour release rate with a probability of detection of 0.95 and a probability of false alarm of 0.05 will be deemed sufficient to approve a monthly monitoring method. If the method is approved, the owner and operator shall comply with any conditions imposed by the department on the use of the method to ensure the protection of human health and the environment.

History: 1990 MR 12, Eff. Jan. 3, 1991, 1998 MR 12, Eff. Dec. 30, 1998.

R 29.2126 Methods of release detection for piping.

Rule 26. Section 280.44 is amended to read as follows:

Section 280.44. Each method of release detection for piping used to meet the requirements of section 280.41 shall be conducted in accordance with all of the following provisions:

(a) Automatic line leak detectors. A methods that alerts the operator to the presence of a leak by restricting or shutting off the flow of regulated substances through piping or triggering an audible or visual alarm may be used only if the method detects leaks of 3 gallons per hour at 10 pounds per square inch line pressure within 1 hour. An annual test of the operation of the leak detector shall be conducted in accordance with the manufacturer's requirements.

(b) With respect to line tightness testing, both of the following provisions:

(1) Line tightness testing shall be capable of detecting a 0.1 gallons per hour leak rate at 1 1/2 times the operating pressure.

(2) Secondary containment piping shall be tested by a positive pressure of not less than 5 psig for a minimum of 1 hour.

(c) Applicable tank methods. Any of the methods in section 280.43(e) to (h) may be used if they are designed to detect a release from any portion of the underground piping that routinely contains regulated substances.

History: 1998 MR 12, Eff. Dec. 30, 1998.

R 29.2127 Release detection recordkeeping.

Rule 27. Section 280.45 is amended to read as follows:

Section 280.45. All UST system owners and operators shall maintain records in accordance with section 280.34 demonstrating compliance with all applicable requirements of this subpart. The records shall include all of the following:

(a) All written performance claims pertaining to any release detection system used and the manner in which the claims have been justified or tested by the equipment manufacturer or installer shall be maintained for 5 years from the date of installation or for another reasonable period of time determined by the department.

(b) The results of any sampling, testing, or monitoring shall be maintained for not less than 2 years or for

Annual Administrative Code Supplement
1998 – 2000 Edition

another reasonable period of time determined by the department. The results of tank and piping tightness testing conducted in accordance with sections 280.43(c) and 280.44(b) shall be retained for not less than 5 years.

(c) Written documentation of all calibration, maintenance, and repair of release detection equipment permanently located on-site shall be maintained for not less than 2 years after the servicing work is completed or for another reasonable time period determined by the department. Any schedules of required calibration and maintenance provided by the release detection equipment manufacturer shall be retained for 5 years from the date of installation.

History: 1990 MR 12, Eff. Jan. 3, 1991; 1998 MR 12, Eff. Dec. 30, 1998.

SUBPART E. RELEASE REPORTING, INVESTIGATION, AND CONFIRMATION

R 29.2129 Reporting of suspected releases.

Rule 29. Section 280.50 is amended to read as follows:

Section 280.50. Owners or operators of UST systems, or a person who is employed by the owner or operator, shall report to the department in a manner specified in section 280.61 and follow the procedures specified in section 280.52 when any of the following conditions occur:

(a) The discovery by owners and operators or others of released regulated substances at the UST site or in the surrounding area, such as the presence of free product or vapors in soils, basements, sewer and utility lines, and nearby surface water.

(b) Unusual operating conditions observed by owners and operators, such as the erratic behavior of product dispensing equipment, the sudden loss of product from the UST system, or any unexplained presence of water in the tank, unless system equipment is found to be defective but not leaking and is immediately repaired or replaced.

(c) Monitoring results from a release detection method required under sections 280.41 and 280.42 that indicate a release may have occurred, unless either of the following conditions is satisfied:

(1) The monitoring device is found to be defective and is immediately repaired, recalibrated, or replaced and additional monitoring does not confirm the initial result.

(2) In the case of inventory control, a second month of data does not confirm the initial result. A person who is employed by the owner or operator may do the reporting on behalf of the owner or operator; however, the owner or operator has the final responsibility to make sure the report is made.

History: 1990 MR 12, Eff. Jan. 3, 1991; 1998 MR 12, Eff. Dec. 30, 1998.

R 29.2131 Release investigation and confirmation steps.

Rule 31. Section 280.52 is amended to read as follows:

Section 280.52. Unless corrective action is initiated in accordance with subpart F of these rules and part 213 of Act No. 451 of the Public Acts of 1994, as amended, being § 324.21301 et seq. of the Michigan Compiled Laws, owners and operators shall immediately investigate and confirm all suspected releases of regulated substances requiring reporting under section 280.50, within 7 days or within another reasonable time period specified by the implementing agency, using either of the following steps or another procedure approved by the department:

(a) System test. Owners and operators shall conduct tests, according to the requirements for tightness testing in sections 280.43(c) and 280.44(b), that determine whether a leak exists in the UST system. Owners and operators shall repair, replace, or upgrade the UST system and begin corrective action in accordance with the provisions of subpart F of these rules and part 213 of Act No. 451 of the Public Acts of 1994, as amended, being § 324.21301 et seq. Of the Michigan Compiled Laws, if the test results for the UST system indicate that a leak exists. Further investigation is not required if the test results for the UST system do not indicate that a leak exists and if environmental contamination is not the basis for suspecting a release. Owners and operators shall conduct a site check as described in subdivision (b) of this section if the test results for the UST system do not indicate that a leak exists, but environmental contamination is the basis for suspecting a release.

(b) Site check. Owners and operators shall measure for the presence of a release where contamination is

Annual Administrative Code Supplement
1998 – 2000 Edition

most likely to be present at the UST site. In selecting samples types, sample locations, and measurement methods, owners and operators shall consider the nature of the stored substance, the type of initial alarm or cause for suspicion, the type of backfill, the depth of groundwater, and other factors appropriate for identifying the presence and source of the release. If the test results for the excavation zone or the UST site indicate that a release has occurred, owners or operators shall begin corrective action in accordance with subpart F of these rules and part 213 of Act No. 451 of the Public Acts of 1994, as amended, being § 324.21301 et seq. of the Michigan Compiled Laws. If the test results for the excavation zone or the UST site do not indicate that a release has occurred, then further investigation is not required.

History: 1990 MR 12, Eff. Jan. 3, 1991; 1998 MR 12, Eff. Dec. 30, 1998.

R 29.2133 Reporting and cleanup of spills and overfills.

Rule 33. Section 280.53 is amended to read as follows:

Section 280.53. (a) Owners or operators of UST systems shall contain and immediately clean up a spill or overfill, report to the department in the manner specified in section 280.61, and begin corrective action in accordance with subpart F of these rules and part 213 of Act No. 451 of the Public Acts of 1994, as amended, being § 324.21301 et seq. of the Michigan Compiled Laws, in either of the following cases:

- (1) A spill or overfill of petroleum that results in a release into groundwater, surface water, or subsurface soils.
- (2) A spill or overfill of a hazardous substance that results in a release into groundwater, surface water, or subsurface soils.
- (b) Owners and operators of UST systems shall contain and immediately clean up a spill or overfill of petroleum and a spill or overfill of a hazardous substance.

History: 1990 MR 12, Eff. Jan. 3, 1991; 1998 MR 12, Eff. Dec. 30, 1998.

**SUBPART F. RELEASE RESPONSE AND CORRECTIVE ACTION FOR UST SYSTEMS
CONTAINING PETROLEUM OR HAZARDOUS SUBSTANCES**

R 29.2135

Source: 1990 AACs.

R 29.2137 Initial response.

Rule 37. Section 280.61 is amended to read as follows:

Section 280.61. Upon confirmation of a release in accordance with section 280.52 or after a release from the UST system is identified in any other manner, owners or operators, or a person employed by the owners or operators, shall perform the following initial response actions within 24 hours of a release or within another reasonable period of time determined by the department:

(a) Report the release to the department by telephone, in person, by electronic mail, or by facsimile. To meet the requirements of this section, the report shall contain, at a minimum, all of the following information:

- (1) Name of the person reporting the release.
- (2) Date and time the release was discovered.
- (3) Date and time the release was reported.
- (4) Location of the release, including the facility name, address, county, and township.
- (5) The owner's or operator's names and mailing addresses.
- (6) Name of the contact person and phone number.
- (7) Release information, including the type of construction of the tank, the tank capacity, the substance released, and the site condition that led the owner or operator to believe a release had occurred.
- (b) If the site assessment report required under section 280.72 is the only indication that an owner and operator has of a release and if the site assessment report is submitted within 45 days, then the site assessment report shall be considered valid notification of the release.
- (c) A person who is employed by the owner or operator may do the reporting on behalf of the owner or operator; however, the owner or operator has the final responsibility to make sure the report is made.

History: 1990 MR 12, Eff. Jan. 3, 1991, 1998 MR 12, Eff. Dec. 30, 1998.

Annual Administrative Code Supplement
1998 – 2000 Edition

R 29.2139 Notifications.

Rule 39. Section 280.62 is amended to read as follows:

Section 280.62. Upon receiving a report of a release, the department will send a confirmation of receiving the release report to the owner or operator within 14 days.

History: 1990 MR 12, Eff. Jan. 3, 1991; 1998 MR 12, Eff. Dec. 30, 1998.

R 29.2141

Source: 1990 AACCS.

R 29.2143

Source: 1990 AACCS.

R 29.2145

Source: 1990 AACCS.

R 29.2147

Source: 1990 AACCS.

R 29.2149

Source: 1990 AACCS.

SUBPART G. OUT-OF-SERVICE UST SYSTEMS AND CLOSURE

R 29.2151 Temporary closure.

Rule 51. Section 280.70 is amended to read as follows:

Section 280.70. Temporary closure. (a) A UST system shall be considered temporarily closed if it is empty for more than 30 continuous days and it is intended to be brought back into use within 12 months. Owners and operators shall continue the operation and maintenance of corrosion protection in accordance with section 280.31 and any release detection in accordance with subpart D of these rules. However, release detection is not required if the UST system is empty. The UST system is empty when all materials have been removed using commonly employed practices so that not more than 2.5 centimeters (1 inch) of residue or 0.3% by weight of the total capacity of the UST system remains in the system. The provisions of subparts E and F of these rules shall be complied with if a release is suspected or confirmed. The owner shall provide the department with written notification, using the registration form provided by the department, indicating that the UST system will be temporarily closed for not more than 12 months and that the owner intends to bring the UST system back into service within the 12-month period.

(b) If a UST system is temporarily closed, then the owners and operators shall also comply with both of the following requirements:

(1) Leave vent lines open and functioning

(2) Cap and secure all other lines, pumps, manways, and ancillary equipment.

(c) If a UST system is temporarily closed for more than 12 months, then the owners and operators shall permanently close the UST system if it does not meet either the performance standards specified in section 280.20 for new UST systems or the upgrading requirements specified in section 280.21, except that the spill and overfill equipment requirements do not have to be met. Owners and operators shall permanently close the substandard UST systems at the end of the 12-month period in accordance with sections 280.71 to 280.74, unless the department provides an extension of the 12-month temporary closure period. The request shall be received in writing not less than 30 days before the 12-month deadline ends. The extension shall not be for more than 12 months. Owners and operators shall complete a site assessment in accordance with section 280.72 before applying for an extension.

(d) The owner of a temporarily closed UST system is subject to payment of a registration fee under part 211 of Act No. 451 of the Public Acts of 1994, as amended, being § 324.21101 et seq. of the Michigan Compiled Laws.

(e) Immediately before bringing a UST systems back into use, the owners and operators shall perform tank

Annual Administrative Code Supplement
1998 – 2000 Edition

and piping tightness tests conducted in accordance with the requirements of sections 280.43(c) and 280.44(b) on a UST system that is temporarily closed for 12 months or more and shall confirm that the UST system is tight.

History: 1990 MR 12, Eff. Jan. 3, 1991; 1998 MR 12, Eff. Dec. 30, 1998.

R 29.2153 Permanent closure and changes in service.

Rule 53. Section 280.71 is amended to read as follows:

Section 280.71. (a) Not less than 30 days before beginning either permanent closure or a change in service under subsections (b) and (c) of this section, or within another reasonable time period determined by the department, an owner and operator, or a person employed by the owner and operator, shall notify the department of the owner's and operator's intent to permanently close or make the change in service, unless the action is in response to corrective action. The 30-day notification requirement may be waived by the department. The required assessment of the excavation zone under section 280.72 shall be performed after notifying the department, but before completion of the permanent closure or change in service. The owner and operator has the final responsibility to make sure the notification is given.

(b) A UST system shall be considered permanently closed when the UST system is empty for 30 days or more and does not meet the requirements of temporary closure specified in 280.70 or the requirements for change in service specified in 280.72. To permanently close a tank, an owner and operator shall empty and clean it by removing all liquids and accumulated sludge and purge it of all vapors. All tanks closed permanently shall be removed from the ground. If building structures exist above or near the tank, or in close proximity to the tank such that removal would jeopardize the building structure integrity, the owner or operator may close the UST system in place. To close the UST system in place, the tank shall be emptied and cleaned as defined in this subsection and filled with an inert solid material and a site assessment shall be conducted under section 280.72. Piping permanently removed from service shall be emptied of all liquids and sludge, purged, and capped or shall be removed from the ground. Unless approved by the department, the owners and operators of an improperly closed UST system shall close the UST system in accordance with this section and sections 280.72 to 280.74. A tank is considered improperly closed in place if removal would not cause structural damage to any building or major structure.

(c) The use of a UST system to store a nonregulated substance is considered a change in service. Owners and operators are required to provide a 30-day notice in accordance with subsection (a) of this section. This notice shall be on a form provided by the department. Owners and operators or their agent shall then empty and clean the tank and piping by removing all liquid and accumulated sludge and conduct a site assessment in accordance with section 280.72.

(d) Notification of permanent closure or a change in service, as required under subsection (a) of this section, shall be on a form provided by the department, and the owner and operator shall complete the information as specified on the form. The owner and operator shall notify the department not less than 2 working days, excluding Saturdays, Sundays, and holidays, before the actual permanent closure or change in service of the UST system.

(e) Upon notification received under subsection (d) of this section, the department shall forward an approval notice to the owner or operator. The approval is valid for 6 months. If the UST system is not closed or a change in service does not occur within the 6 month period, then the owner and operator shall resubmit the notification form specified in subsection (d) of this section.

(f) Within 30 days of permanent closure or a change in service of the UST system, the owner and operator shall sign and submit an amended registration for underground storage tank form or, in place of an amended registration form required under section 280.22, an owner or operator may submit a site assessment form, signed by the owner, within 45 days of permanent closure or a change in service.

History: 1990 MR 12, Eff. Jan. 3, 1991.

R 29.2155 Assessing site at closure or change in service.

Rule 55. Section 280.72 is amended by to read as follows:

Section 280.72. (a) Before permanent closure or a change in service is completed, owners and operators shall measure for the presence of a release where contamination is most likely to be present at the UST site. In selecting sample types, sample locations and measurement methods, owners and operators shall consider

Annual Administrative Code Supplement
1998 – 2000 Edition

the method of closure, the nature of the stored substance, the type of backfill, the depth to ground water, and other factors appropriate for identifying the presence of a release. The requirements of this section are satisfied if one of the external release detection methods allowed in section 280.43(e) and (f) is operating in accordance with the requirements in section 280.43 at the time of closure, and indicates no release has occurred.

(b) If contaminated soils, contaminated groundwater, or free product as a liquid or vapor is discovered under subsection (a) or (c) of this section or in any other manner, then the owners and operators shall report a confirmed release in accordance with section 280.61 and begin corrective action in accordance with subpart F of these rules and part 213 of Act No. 451 of the Public Acts of 1994, as amended, being § 324.21301 et seq. of the Michigan Compiled Laws.

(c) Visible or olfactory evidence of a regulated substance in the UST excavation constitutes a confirmed release. Positive indication from field screening instruments constitutes a suspected release.

(d) Upon closure or a change in service of a UST, the owners and operators shall perform a site assessment in compliance with either of the following provisions:

(1) Two soil borings shall be taken as close as practical to the tank, but not more than 5 feet from the tank. One boring shall be taken at each end of the tank, but not more than 2 feet below the bottom of the tank and boring shall be taken at the bottom of each end of the tank.

(2) Upon removal of a UST, the owners and operators shall perform a site assessment in compliance with either of the following provisions:

(i) One discrete sample shall be taken from the excavation floor underneath the fill pipe area for each tank removed and 1 discrete sample shall be taken from the excavation floor underneath the opposite end of the tank.

(ii) One water sample shall be taken if the entire floor of the excavation is covered with water or a 1-for-1 water-for-soil sample shall be taken if the excavation is partially covered with water.

(e) Additional sample or samples shall be taken when deemed necessary by the department or the person who performs the site assessment.

(f) A site assessment for piping shall be performed after emptying and purging the piping run or after the removal of piping. The site assessment shall consist of 1 discrete sample for every 30 feet of the underground piping run, starting at the dispenser location or the furthest point from the tank and moving towards the tank.

(g) Samples shall be analyzed using the following testing methods:

(1) An appropriate method listed in the United States environmental protection agency standard entitled "Test Methods For Evaluating Solid Waste; Physical/Chemical Methods," SW-846 document.

(2) Other testing methods determined by the department to be equally effective in assessing the level of contamination.

(h) Copies of site assessment results shall be submitted to the department within 45 days of the sampling date, together with the site assessment report form provided by the department. The owner and operator shall complete the information specified on the form and shall provide a site map which indicates the location of tanks and piping and which identifies the depth and location of the samples taken. The site assessment report shall also include a copy of the laboratory report that indicates the test methods used in the analyses and the chain of custody of the samples.

History: 1990 MR 12, Eff. Jan. 3, 1991; 1992 MR 9, Eff. Oct. 31, 1992; 1998 MR 12, Eff. Dec. 30, 1998.

R 29.2157 Applicability to previously closed UST systems.

Rule 57. Section 280.73 is amended to read as follows:

Section 280.73. When directed by the department, the owner and operator of a UST system that was permanently closed before the effective date of these rules shall assess the excavation zone and close the UST system in accordance with this subpart if suspected or confirmed releases from the UST system may, in the judgment of the department, pose a current or potential threat to human health and the environment.

History: 1990 MR 12, Eff. Jan. 3, 1991, 1998 MR 12, Eff. Dec. 30, 1998.

R 29.2159 Closure records.

Rule 59. Section 280.74 is amended to read as follows:

Annual Administrative Code Supplement
1998 – 2000 Edition

Section 280.74. Closure records. Owners and operators shall maintain records, in accordance with the provisions of section 280.34, that are capable of demonstrating compliance with closure requirements under this subpart. The results of the site assessment required in section 280.72 shall be maintained for not less than 3 years after completion of permanent closure or a change in service by mailing the records to the department. The records shall be mailed by either the owners and operators who took the UST system out of service or by the current owners and operators of the UST system site.

History: 1990 MR 12, Eff. Jan. 3, 1991.

SUBPART H. FINANCIAL RESPONSIBILITY

R 29.2161 Applicability.

Rule 61. Section 280.90 is amended to read as follows:

Section 280.90. (a) This subpart applies to owners and operators of all petroleum underground storage tank (UST) systems except as otherwise provided in this section.

(b) Owners and operators of petroleum UST systems are subject to these requirements if they are in operation on or after the date for compliance established in section 280.91.

(c) State and federal government entities whose debts and liabilities are the debts and liabilities of a state of the United States are exempt from the requirements of this subpart.

(d) The requirements of this subpart do not apply to owners and operators of any UST system excluded or deferred under part 211 of Act No. 451 of the Public Acts of 1994, as amended, being § 324.21101 et seq. of the Michigan Compiled Laws.

(e) If the owner and operator of a petroleum underground storage tank are separate persons, only 1 person is required to demonstrate financial responsibility; however, both parties are liable in event of noncompliance. Regardless of which party complies, the date set for compliance at a particular facility is determined by the characteristics of the owner as set forth in section 280.91.

(f) The amount of the financial responsibility requirements required under the provisions of this subpart shall be reduced to the amount required by the federal government upon passage by the federal government of a reduction in the financial requirements of this part.

History: 1990 MR 12, Eff. Jan. 3, 1991; 1998 MR 12, Eff. Dec. 30, 1998.

R 29.2163 Definition of terms.

Rule 63. Section 280.92 is amended by to read as follows:

Section 280.92. As used in this subpart:

(a) "Accidental release" means any sudden or nonsudden release of petroleum from an underground storage tank that results in a need for corrective action and/or compensation for bodily injury or property damage neither expected nor intended by the tank owner or operator.

(b) "Bodily injury" shall have the meaning given to this term by applicable state law; however, this term shall not include those liabilities which, consistent with standard insurance industry practices, are excluded from coverage in liability insurance policies for bodily injury.

(c) "Chief financial officer," in the case of local government owners and operators, means the individual who has the overall authority and responsibility for the collection, disbursement, and use of funds by the local government.

(d) "Controlling interest" means direct ownership of not less than 50% of the voting stock of another entity.

(e) "Director of the implementing agency" means the director of the Michigan department of environmental quality.

(f) "Financial reporting year" means the latest consecutive 12-month period for which any of the following reports used to support a financial test is prepared:

(1) A 10-k report submitted to the securities exchange commission.

(2) An annual report of tangible net worth submitted to Dun and Bradstreet.

(3) Annual reports submitted to the energy information administration or the rural electrification administration.

(g) "Legal defense cost" means any expense that an owner or operator or provider of financial assurance

Annual Administrative Code Supplement
1998 - 2000 Edition

incurs in defending against claims or actions brought by any of the following entities:

- (1) EPA or a state to require corrective action or to recover the costs of corrective action.
- (2) By or on behalf of a third party for bodily injury or property damage caused by an accidental release.
- (3) Any person to enforce the terms of a financial assurance mechanism.
- (h) "Local government" has the meaning given this term by applicable state law and includes Indian tribes. The term is generally intended to include the following entities:
 - (1) Counties.
 - (2) Municipalities.
 - (3) Townships.
 - (4) Separately chartered and operated special districts, including local government public transit systems and redevelopment authorities.
 - (5) Independent school districts authorized as governmental bodies by state charter or constitution.
 - (6) Special districts and independent school districts established by counties, municipalities, townships, and other general purpose governments to provide essential services.
- (i) "Occurrence" means an accident, including continuous or repeated exposure to conditions, that results in a release from an underground storage tank.
- (j) "Owner or operator," when the owner and operator are separate parties, means the party that is obtaining or has obtained financial assurances.
- (k) "Petroleum marketing facilities" means all facilities at which petroleum is produced or refined and all facilities from which petroleum is sold or transferred to other petroleum marketers or to the public.
- (l) "Petroleum marketing firms" means all firms that own petroleum marketing facilities. Firms that own other types of facilities with USTs as well as petroleum marketing facilities are considered to be petroleum marketing firms.
- (m) "Property damage" has the meaning given this term by applicable state law. The term does not include liabilities which, consistent with standard insurance industry practices, are excluded from coverage in liability insurance policies for property damage. However, the exclusions for property damage shall not include corrective action associated with releases from tanks that are covered by the policy.
- (n) "Provider of financial assurance" means an entity that provides financial assurance to an owner or operator of an underground storage tank through 1 of the mechanisms listed in sections 280.95 to 280.103, including any of the following entities:
 - (1) A guarantor.
 - (2) An insurer.
 - (3) A risk retention group.
 - (4) A surety.
 - (5) An issuer of a letter of credit.
 - (6) An issuer of a state-required mechanism.
 - (7) A state.
- (o) "Substantial business relationship" means the extent of a business relationship necessary under applicable state law to make a guarantee contract issued incident to the relationship valid and enforceable. A guarantee contract is issued incident to the relationship if it arises from and depends on existing economic transactions between the guarantor and the owner or operator.
- (p) "Substantial governmental relationship" means the extent of a governmental relationship necessary under applicable state law to make an added guarantee contract issued incident to the relationship valid and enforceable. A guarantee contract is issued incident to the relationship if it arises for a clear commonality of interest in the event of a UST release, such as any of the following:
 - (1) Coterminous boundaries.
 - (2) Overlapping constituencies.
 - (3) Common groundwater aquifer.
 - (4) Another relationship other than monetary compensation that provides a motivation for the guarantor to provide a guarantee.
- (q) "Tangible net worth" means the tangible assets that remain after deducting liabilities. Tangible assets do not include intangibles such as goodwill and rights to patents or royalties. For the purposes of this definition, "assets" means all existing and all probable future economic benefits obtained or controlled by a

Annual Administrative Code Supplement
1998 – 2000 Edition

particular entity as a result of past transactions.

(r) "Termination," under sections 280.97(b)(1) and (2), means only the changes that could result in a gap in coverage such as where the insured has not obtained substitute coverage or has obtained substitute coverage with a different retroactive date than the retroactive date of the original policy.

History: 1990 MR 12, Eff. Jan. 3, 1991; 1998 MR 12, Eff. Dec. 30, 1998.

R 29.2163 Definition of terms.

Rule 63. Section 280.92 is amended by to read as follows:

Section 280.92. As used in this subpart:

(a) "Accidental release" means any sudden or nonsudden release of petroleum from an underground storage tank that results in a need for corrective action and/or compensation for bodily injury or property damage neither expected nor intended by the tank owner or operator.

(b) "Bodily injury" shall have the meaning given to this term by applicable state law; however, this term shall not include those liabilities which, consistent with standard insurance industry practices, are excluded from coverage in liability insurance policies for bodily injury.

(c) "Chief financial officer," in the case of local government owners and operators, means the individual who has the overall authority and responsibility for the collection, disbursement, and use of funds by the local government.

(d) "Controlling interest" means direct ownership of not less than 50% of the voting stock of another entity.

(e) "Director of the implementing agency" means the director of the Michigan department of environmental quality.

(f) "Financial reporting year" means the latest consecutive 12-month period for which any of the following reports used to support a financial test is prepared:

(1) A 10-k report submitted to the securities exchange commission.

(2) An annual report of tangible net worth submitted to Dun and Bradstreet.

(3) Annual reports submitted to the energy information administration or the rural electrification administration.

(g) "Legal defense cost" means any expense that an owner or operator or provider of financial assurance incurs in defending against claims or actions brought by any of the following entities:

(1) EPA or a state to require corrective action or to recover the costs of corrective action.

(2) By or on behalf of a third party for bodily injury or property damage caused by an accidental release.

(3) Any person to enforce the terms of a financial assurance mechanism.

(h) "Local government" has the meaning given this term by applicable state law and includes Indian tribes. The term is generally intended to include the following entities:

(1) Counties.

(2) Municipalities.

(3) Townships.

(4) Separately chartered and operated special districts, including local government public transit systems and redevelopment authorities.

(5) Independent school districts authorized as governmental bodies by state charter or constitution.

(6) Special districts and independent school districts established by counties, municipalities, townships, and other general purpose governments to provide essential services.

(i) "Occurrence" means an accident, including continuous or repeated exposure to conditions, that results in a release from an underground storage tank.

(j) "Owner or operator," when the owner and operator are separate parties, means the party that is obtaining or has obtained financial assurances.

(k) "Petroleum marketing facilities" means all facilities at which petroleum is produced or refined and all facilities from which petroleum is sold or transferred to other petroleum marketers or to the public.

(l) "Petroleum marketing firms" means all firms that own petroleum marketing facilities. Firms that own

Annual Administrative Code Supplement
1998 - 2000 Edition

other types of facilities with USTs as well as petroleum marketing facilities are considered to be petroleum marketing firms.

(m) "Property damage" has the meaning given this term by applicable state law. The term does not include liabilities which, consistent with standard insurance industry practices, are excluded from coverage in liability insurance policies for property damage. However, the exclusions for property damage shall not include corrective action associated with releases from tanks that are covered by the policy.

(n) "Provider of financial assurance" means an entity that provides financial assurance to an owner or operator of an underground storage tank through 1 of the mechanisms listed in sections 280.95 to 280.103, including any of the following entities:

- (1) A guarantor.
- (2) An insurer.
- (3) A risk retention group.
- (4) A surety.
- (5) An issuer of a letter of credit.
- (6) An issuer of a state-required mechanism.
- (7) A state.

(o) "Substantial business relationship" means the extent of a business relationship necessary under applicable state law to make a guarantee contract issued incident to the relationship valid and enforceable. A guarantee contract is issued incident to the relationship if it arises from and depends on existing economic transactions between the guarantor and the owner or operator.

(p) "Substantial governmental relationship" means the extent of a governmental relationship necessary under applicable state law to make an added guarantee contract issued incident to the relationship valid and enforceable. A guarantee contract is issued incident to the relationship if it arises for a clear commonality of interest in the event of a UST release, such as any of the following:

- (1) Coterminous boundaries.
- (2) Overlapping constituencies.
- (3) Common groundwater aquifer.
- (4) Another relationship other than monetary compensation that provides a motivation for the guarantor to provide a guarantee.
- (q) "Tangible net worth" means the tangible assets that remain after deducting liabilities. Tangible assets do not include intangibles such as goodwill and rights to patents or royalties. For the purposes of this definition, "assets" means all existing and all probable future economic benefits obtained or controlled by a particular entity as a result of past transactions.
- (r) "Termination," under sections 280.97(b)(1) and (2), means only the changes that could result in a gap in coverage such as where the insured has not obtained substitute coverage or has obtained substitute coverage with a different retroactive date than the retroactive date of the original policy.

History: 1998 MR 12, Eff. Dec. 30, 1998.

R 29.2163a Allowable mechanisms and combinations of mechanisms.

Rule 63a. Section 280.94 is amended to read as follows:

Section 280.94. (a) Subject to the limitations of subsections (b) and (c) of this section, both of the following provisions apply:

(1) An owner or operator, including a local government owner or operator, may use any 1 or a combination of the mechanisms listed in sections 280.95 to 280.103 to demonstrate financial responsibility under this subpart for 1 or more underground storage tanks.

(2) A local government owner or operator may use any 1 or a combination of the mechanisms listed in sections 280.104 to 280.107 to demonstrate financial responsibility under this subpart for 1 or more underground storage tanks.

(b) An owner or operator may use a guarantee under section 280.96 or surety bond under section 280.98 to establish financial responsibility only if the attorney general of the state in which the underground storage tanks are located has submitted a written statement to the implementing agency that a guarantee or surety bond executed as described in this section is a legally valid and enforceable obligation in that state.

(c) An owner or operator may use self-insurance in combination with a guarantee only if, for the purpose of

Annual Administrative Code Supplement
1998 - 2000 Edition

meeting the requirements of the financial test under this rule, the financial statements of the owner or operator are not consolidated with the financial statements of the guarantor.

History: 1998 MR 12, Eff. Dec. 30, 1998.

R 29.2163b Guarantee.

Rule 63b. Section 280.96 is amended to read as follows:

Section 280.96. (a) An owner or operator may satisfy the requirements of section 280.93 by obtaining a guarantee that conforms to the requirements of this section. The guarantor shall be either of the following entities:

(a) A firm that meets all of the following requirements:

(i) Possesses a controlling interest in the owner or operator.

(ii) Possesses a controlling interest in a firm described in paragraph (i) of this subdivision.

(iii) Is controlled through stock ownership by a common parent firm that possesses a controlling interest in the owner or operator.

(2) A firm which is engaged in a substantial business relationship with the owner or operator and which is issuing the guarantee as an act incident to the business relationship.

(b) Within 120 days of the close of each financial reporting year, the guarantor shall demonstrate that it meets the financial test criteria of section 280.95, based on year-end financial statements for the latest completed financial reporting year, by completing the letter from the chief financial officer described in section 280.95(d) and shall deliver the letter to the owner or operator. If the guarantor fails to meet the requirements of the financial test at the end of any financial reporting year, then, within 120 days of the end of the financial reporting year, the guarantor shall send, by certified mail, before cancellation or nonrenewal of the guarantee, notice to the owner or operator. If the director of the implementing agency notifies the guarantor that the guarantor no longer meets the requirements of the financial test of section 280.95(b) or (c) and (d), then the guarantor shall notify the owner or operator within 10 days of receiving the notification from the director. In both cases, the guarantee will terminate not less than 120 days after the date that the owner or operator receives the notification, as evidenced by the return receipt. The owner or operator shall obtain alternate coverage as specified in section 280.114.

(c) The guarantee shall be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

Guarantee

Guarantee made this [date] by [name of guaranteeing entity], a business entity organized under the laws of the state of [name of state], herein referred to as guarantor, to [the state implementing agency] and to any and all third parties, and obligees, on behalf of [owner or operator] of [business address].

Recitals

(1) Guarantor meets or exceeds the financial test criteria of 40 C.F.R. 280.95(b) or (c) and (d) and agrees to comply with the requirements for guarantors as specified in 40 C.F.R. 280.96(b).

(2) [Owner or operator] owns or operates the following underground storage tank(s) covered by this guarantee: [List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than 1 instrument is used to assure different tanks at any 1 facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to 40 C.F.R. 280.22 or the corresponding state requirement, and the name and address of the facility.] This guarantee satisfies 40 C.F.R. Part 280, Subpart H, requirements for assuring funding for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; if coverage is different from different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the above-identified underground storage tanks(s) in the amount of [insert dollar amount] per occurrence and [insert dollar amount] annual aggregate.

(3) [Insert appropriate phrase: "On behalf of our subsidiary" (if guarantor is corporate parent of the owner or operator); "On behalf of our affiliate" (if guarantor is a related firm of the owner or operator); or "Incident

Annual Administrative Code Supplement
1998 - 2000 Edition

to our business relationship with" (if guarantor is providing the guarantee as an incident to a substantial business relationship with owner or operator)] [owner or operator], guarantor guarantees to [implementing agency] and to any and all third parties that:

In the event that [owner or operator] fails to provide alternative coverage within 60 days after receipt of a notice of cancellation of this guarantee and the [Director of the implementing agency] has determined or suspects that a release has occurred at an underground storage tank covered by this guarantee, the guarantor, upon instructions from the [Director], shall fund a standby trust fund in accordance with the provisions of 40 C.F.R. 280.112, in an amount not to exceed the coverage limits specified above.

In the event that the [Director] determines that [owner or operator] has failed to perform corrective action for releases arising out of the operation of the above-identified tank(s) in accordance with 40 C.F.R. Part 280, Subpart F, the guarantor upon written instructions from the [Director] shall fund a standby trust in accordance with the provisions of 40 C.F.R. 280.112, in an amount not to exceed the coverage limits specified above. If [owner or operator] fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by ["sudden" and/or "nonsudden"] accidental releases arising from the operation of the above identified tank(s), or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from such injury or damage, the guarantor, upon written instructions from the [Director], shall fund a standby trust in accordance with the provisions of 40 C.F.R. 280.112 to satisfy such judgment(s), award(s), or settlement agreement(s) up to the limits of coverage specified above.

(4) Guarantor agrees that if, at the end of any fiscal year before cancellation of this guarantee, the guarantor fails to meet the financial test criteria of 40 C.F.R. 280.95(b) or (c) and (d), guarantor shall send within 120 days of such failure, by certified mail, notice to [owner or operator].

The guarantee will terminate 120 days from the date of receipt of the notice by [owner or operator] as evidenced by the return receipt.

(5) Guarantor agrees to notify [owner or operator] by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code naming guarantor as debtor, within 10 days after commencement of the proceeding.

(6) Guarantor agrees to remain bound under this guarantee notwithstanding any modification or alteration of any obligation of [owner or operator] pursuant to 40 C.F.R. Part 280.

(7) Guarantor agrees to remain bound under this guarantee for so long as [owner or operator] must comply with the applicable financial responsibility requirements of 40 C.F.R. Part 280, subpart H for the above identified tank(s), except that guarantor may cancel this guarantee by sending notice by certified mail to [owner or operator], such cancellation to become effective no earlier than 120 days after receipt of such notice by [owner or operator], as evidenced by the return receipt.

(8) The guarantor's obligation does not apply to any of the following:

(a) Any obligation of [insert owner or operator] under a workers' compensation, disability benefits, or unemployment compensation law or other similar law;

(b) Bodily injury to an employee of [insert owner or operator] arising from, and in the course of, employment by [insert owner or operator];

(c) Bodily injury or property damage arising from the ownership, maintenance, use or entrustment to others of any aircraft, motor vehicle, or watercraft;

(d) Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert owner or operator] that is not the direct result of a release from a petroleum underground storage tank;

(e) Bodily damage or property damage for which [insert owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement, other than a contract or agreement entered into to meet the requirements of 40 C.F.R. 280.93.

(9) Guarantor expressly waives notice of acceptance of this guarantee by [implementing agency], by any or all third parties, or by [owner or operator].

I hereby certify that the wording of this guarantee is identical to the wording specified in 40 C.F.R. 280.96(c), as such regulations were constituted on the effective date shown immediately below.

Effective date: _____

Annual Administrative Code Supplement
1998 – 2000 Edition

[Name of guarantor]
[Authorized signature for guarantor]
[Name of person signing]
[Title of person signing]
Signature of witness of notary: _____

(d) An owner or operator who uses a guarantee to satisfy the requirements of section 280.93 shall establish a standby trust fund when the guarantee is obtained. Under the terms of the guarantee, all amounts paid by the guarantor under the guarantee will be deposited directly into the standby trust fund in accordance with instructions from the director of the implementing agency under section 280.112. The standby trust fund shall meet the requirements specified in section 280.103.

History: 1998 MR 12, Eff. Dec. 30, 1998.

R 29.2163c Insurance and risk retention group coverage.

Rule 63c. Section 280.97 is amended to read as follows:

Section 280.97. (a) An owner or operator may satisfy the requirements of section 280.93 by obtaining liability insurance that conforms to the requirements of this section from a qualified insurer or risk retention group. Such insurance may be in the form of a separate insurance policy or an endorsement to an existing insurance policy.

(b) Each insurance policy shall be amended by an endorsement worded as specified in paragraph (b)(1) of this section, or evidence by a certificate of insurance worded as specified in paragraph (b)(2) of this section, except that instructions in brackets shall be replaced with the relevant information and the brackets deleted:

(1) Endorsement

Name: [name of each covered location]

Address: [address of each covered location]

Policy Number:

Period of Coverage: [current policy period]

Name of [Insurer or Risk Retention Group]:

Address of [Insurer or Risk Retention Group]:

Name of Insured:

Address of Insured:

Endorsement:

This endorsement certifies that the policy to which the endorsement is attached provides liability insurance covering the following underground storage tanks: [List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than 1 instrument is used to assure different tanks at any 1 facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to 40 C.F.R. 280.22, or the corresponding state requirement, and the name and address of the facility.] for [insert:

Annual Administrative Code Supplement
1998 - 2000 Edition

"taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or non sudden accidental releases" or "accidental releases" in accordance with and subject to the limits of liability, exclusions, conditions, and other terms of the policy; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the underground storage tank(s) identified above. The limits of liability are [insert the dollar amount of the "each occurrence" and "annual aggregate" limits of the Insurer's or Group's liability; if the amount of coverage is different for different types of coverage or for different underground storage tanks or locations, indicate the amount of coverage for each type of coverage and/or for each underground storage tank or location], exclusive of legal defense costs, which are subject to a separate limit under the policy. This coverage is provided under [policy number]. The effective date of said policy is [date].

2. The insurance afforded with respect to such occurrences is subject to all of the terms and conditions of the policy; provided, however, that any provisions inconsistent with subsections (a) to (e) of this Paragraph 2 are hereby amended to conform with subsections (a) to (e);

a. Bankruptcy or insolvency of the insured shall not relieve the ["Insurer" or "Group"] of its obligations under the policy to which this endorsement is attached.

b. The ["Insurer" or "Group"] is liable for the payment of amounts within any deductible applicable to the policy to the provider of corrective action or a damaged third-party, with a right of reimbursement by the insured for any such payment made by the ["Insured" or "Group"]. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated under another mechanism or combination of mechanisms as specified in 40 C.F.R. 280.95-280.102.

c. Whenever requested by [a Director of an implementing agency], the ["Insurer" or "Group"] agrees to furnish to [the Director] a signed duplicate original of the policy and all endorsements.

d. Cancellation or any other termination of the insurance by the ["Insurer" or "Group"] except for nonpayment of premium or misrepresentation by the insured, will be effective only upon written notice and only after the expiration of 60 days after a copy of such written notice is received by the insured.

[Insert for claims made policies:

e. The insurance covers claims otherwise covered by the policy that are reported to the ["Insured" or "Group"] within 6 months of the effective date of cancellation or non-renewal of the policy except where the new or renewed policy has the same retroactive date or a retroactive date earlier than that of the commenced after the policy retroactive date, if applicable, and prior to such policy renewal or termination date. Claims reported during such extended reporting period are subject to the terms, conditions, limits, including limits of liability, and exclusions of the policy.]

I hereby certify that the wording of this instrument is identical to the wording in C.F.R. 280.97(b)(1) and that the ["Insurer" or "Group"] is ["licensed to transact the business or insurance or eligible to provide insurance as an excess or surplus lines insurer in 1 or more states".]

[Signature of authorized representative of Insurer or Risk Retention Group]

[Name of person signing]

[Title of person signing], Authorized Representative of [name of Insurer or Risk Retention Group]

[Address of Representative]

Name: [name of each covered location]

Address: [address of each covered location]

Policy Number:

Annual Administrative Code Supplement
1998 - 2000 Edition

Endorsement (if applicable):

Period of Coverage: [current policy period] Name of [Insurer or Risk Retention Group]:

Address of [Insurer or Risk Retention Group]:

Name of Insured:

Address of Insured:

Certification:

1. [Name of Insurer or Risk Retention Group], [the "Insurer" or "Group"], as identified above, hereby certifies that it has issued liability insurance covering the following underground storage tank(s): [List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than 1 instrument is used to assure different tanks at any 1 facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to 40 C.F.R. 280.22, or the corresponding state requirement, and the name and address of the facility.] for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases" in accordance with and subject to the limits of liability, exclusions, conditions, and other terms of the policy; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the underground storage tank(s) identified above.

The limits of liability are [insert the dollar amount of the "each occurrence" and "annual aggregate" limits of the Insurer's or Group's liability; if the amount of coverage is different for different types of coverage or for different underground storage tanks or locations, indicate the amount of coverage for each type of coverage and/or for each underground storage tank or location], exclusive of the legal defense costs, which are subject to a separate limit under the policy. This coverage is provided under [policy number]. The effective date of said policy is [date].

2. The ["Insurer" or "Group"] further certifies the following with respect to the insurance described in Paragraph 1:

a. Bankruptcy or insolvency of the insured shall not relieve the ["Insurer" or "Group"] of its obligations under the policy to which this certificate applies.

b. The ["Insurer" or "Group"] is liable for the payment of amounts within any deductible applicable to the policy to the provider of corrective action or a damaged third party, with a right of reimbursement by the insured for any such payment made by the ["Insured" or "Group"]. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated under another mechanism or combination of mechanisms as specified in 40 C.F.R. 280.95 to 280.102.

c. Whenever requested by [a Director of an implementing agency], the ["Insurer" or "Group"] agrees to furnish to [the Director] a signed duplicate original of the policy and all endorsements.

d. Cancellation or any other termination of the insurance by the ["Insurer" or "Group"] except for non-payment of premium or misrepresentation by the insured, will be effective only upon written notice and only after the expiration of 60 days after a copy of such written notice is received by the insured. Cancellation for non-payment of premium or misrepresentation by the insured will be effective only upon written notice and only after expiration of a minimum of 10 days after a copy of such written notice is received by the insured.

[Insert for claims-made policies:

e. The insurance covers claims otherwise covered by the policy that are reported to the ["Insurer" or "Group"] within 6 months of the effective date of cancellation or non-renewal of the policy except where the new or renewed policy has the same retroactive date or a retroactive date earlier than that of the prior

Annual Administrative Code Supplement
1998 - 2000 Edition

policy, and which arise out of any covered occurrence that commenced after the policy retroactive date, if applicable, and prior to such policy renewal or termination date. Claims reported during such extended reporting period are subject to the terms, conditions, limits, including limits of liability, and exclusions of the policy.] I hereby certify that the wording of this instrument is identical to the wording in 40 C.F.R. 280.97(b)(2) and that the ["Insurer" or "Group"] is ["licensed to transact the business of insurance or eligible to provide insurance as an excess or surplus lines insurer, in 1 or more states"].

[Signature of authorized representative of Insurer]

[Type Name]

[Title], Authorized Representative of [name of Insurer or Risk Retention Group]

[Address of Representative]

(c) Each insurance policy shall be issued by an insurer or a risk retention group that, at a minimum, is licensed to transact the business of insurance or eligible to provide insurance as an excess or surplus lines insurer in 1 or more states.

(d) In the event of termination or nonrenewal of liability insurance coverage used to meet the financial responsibility requirements, the insurer shall notify the department of termination or nonrenewal not more than 20 days after the date of termination or nonrenewal. The notice shall state the name and address of the insured, the date of termination or nonrenewal, and the address of the facility previously insured.

History: 1998 MR 12, Eff. Dec. 30, 1998.

R 29.2163d Surety bond.

Rule 63.d Section 280.98 is amended as follows:

Section 280.98. (a) An owner or operator may satisfy the requirements of section 280.93 by obtaining a surety bond that conforms to the requirements of this section. The surety company issuing the bond shall be among the companies listed as acceptable sureties on federal bonds in the latest Circular 570 of the United States department of the treasury.

(b) The surety bond shall be worded as follows, except that instructions in brackets shall be replaced with the relevant information and the brackets deleted:

Performance Bond

Date bond executed: _____

Period of coverage: _____

Principal: [legal name and business address of owner or operator]

Type of organization: [insert "individual, " "joint venture,"
"partnership," or "corporation"]

State of incorporation (if applicable):

Surety(ies): [name(s) and business address(es)]

Scope of Coverage: [List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than 1 instrument is used to assure different tanks at any 1 facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to 40 C.F.R. 280.22, or the corresponding state requirement, and the name and address of the facility. List the coverage guaranteed by the bond: "taking corrective action" and/or

Annual Administrative Code Supplement
1998 - 2000 Edition

"compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases; or "accidental releases" arising from operating the underground storage tank"].

Penal sums of bond:

Per occurrence \$ _____

Annual aggregate \$ _____

Surety's bond number: _____

Know all Persons by These Present, that we, the Principal and Surety(ies), hereto are firmly bound to [the implementing agency], in the above penal sums for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where the Surety(ies) are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sums jointly and severally only for the propose of allowing a joint action or actions against any or all of use, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sums only as it set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sums.

Whereas said Principal is required under Subtitle I of the Resource Conservation and Recovery Act (RCRA), as amended, to provide financial assurance for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage cause by" either "sudden accidental releases" or "non-sudden accidental releases" or "accidental releases";, if coverage is different for different tanks or location, indicate the type of coverage applicable to each tank or location] arising from operating the underground storage tanks identified above, and Whereas said Principal shall establish a standby trust fund as is required when a surety bond is used to provide such financial assurance:

Now, therefore, the conditions of the obligation are such that if the Principal shall faithfully ["take corrective action, in accordance with 40 C.F.R. Part 280, Subpart F and the Director of the state implementing agency's instructions for," and/or "compensate injured third parties for bodily injury and property damage cause by" either "sudden" or "nonsudden" or "sudden and nonsudden"] accidental releases arising from operating the tank(s) identified above, or if the Principal shall provide alternate financial assurance, as specified in 40 C.F.R. Part 280, Subpart H, within 120 days after the date the notice of cancellation is received by the Principal from the Surety(ies), then this obligation shall be null and void; otherwise it is to remain in full force and effect.

Such obligation does not apply to any of the following:

- (a) Any obligation of [insert owner or operator] under a worker's compensation, disability benefits, or unemployment compensation law or other similar law;
- (b) Bodily injury to an employee of [insert owner or operator] arising from and in the course of, employment by [insert owner or operator];
- (c) Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;
- (d) Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert owner or operator] that is not the direct result of a release from a petroleum underground storage tank;
- (e) Bodily injury or property damage for which [insert owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of 40 C.F.R. 280.93.

The Surety(ies) shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above.

Upon notification by [the Director of the implementing agency] that the Principal has failed to ["take corrective action, in accordance with 40 C.F.R. Part 280, Subpart F, and the Director's instructions," and/or "compensate injured third parties"] as guaranteed by this bond, the Surety(ies) shall either perform ["corrective action in accordance with 40 C.F.R. Part 280 and the Director's instructions," and/or "third-party liability compensation"] or place funds in an amount up to the annual aggregate penal sum into the standby

Annual Administrative Code Supplement
1998 - 2000 Edition

trust fund as directed by [the Regional Administrator or the Director] under 40 C.F.R. 280.112.

Upon notification by [the Director] that the Principal has failed to provide alternate financial assurance within 60 days after the date the notice of cancellation is received by the Principal from the Surety(ies) and that [the Director] has determined or suspects that a release has occurred, the Surety(ies) shall place funds in an amount not exceeding the annual aggregate penal sum into the standby trust fund as directed by [the Director] under 40 C.F.R. 280.112.

The Surety(ies) hereby waive(s) notification of amendments to applicable laws, statutes, rules, and regulations and agrees that no such amendment shall in any way alleviate its (their) obligation on this bond. The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the annual aggregate to the penal sum shown on the face of the bond, but in no event shall the obligation of the Surety(ies) hereunder exceed the amount of said annual aggregate penal sum. The Surety(ies) may cancel the bond by sending notice of cancellation by certified mail to the Principal, provided however, that cancellation shall not occur during the 120 days beginning on the date of receipt of the notice of cancellation by the Principal, as evidenced by the return receipt.

The Principal may terminate this bond by sending written notice to the Surety(ies).

In Witness Whereof, the principal and Surety(ies) have executed this Bond and have affixed their seals on the date set forth above.

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety(ies) and that the wording of this surety bond is identical to the wording specified in 40 C.F.R. 280.98(b) as such regulations were constituted on the date this bond was executed.

Principal

[Signature(s)]

[Name(s)]

[Title(s)]

[Corporate seal]

Corporate Surety(ies)

[Names and address]

[State of Incorporation]: _____

[Liability limit]: \$ _____

[Signature(s)]

[Name(s) and title(s)]

[Corporate seal]

[For every co-surety, provide signature(s), corporate seal, and other information in the same manner as for Surety above.]

Bond premium: \$ _____

(c) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond. In all cases, the surety's liability is limited to the per-occurrence and annual aggregate penal sums.

(d) The owner or operator who uses a surety bond to satisfy the requirements of section 280.93 shall establish a standby trust fund when the surety bond is acquired. Under the terms of the bond, all amounts paid by the surety under the bond will be deposited directly into the standby trust fund in accordance with instructions from the director under section 280.112. The standby trust fund shall meet the requirements specified in section 280.103.

History: 1998 MR 12, Eff. Dec. 30, 1998.

Annual Administrative Code Supplement
1998 - 2000 Edition

R 29.2163e Letter of credit.

Rule 63e. Section 280.99 is amended to read as follows:

Section 280.99. (a) An owner or operator may satisfy the requirements of section 280.93 by obtaining an irrevocable standby letter of credit that conforms to the requirements of this section. The issuing institution shall be an entity that has the authority to issue letters of credit in each state where used and whose letter-of-credit operations are regulated and examined by a federal or state agency.

(b) The letter of credit shall be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

Irrevocable Standby Letter of Credit

[Name and address of issuing institution]

[Name and address of Director(s) of state implementing agency(ies)]

Dear Sir or Madam: We hereby establish our Irrevocable Standby Letter of Credit No. _____ in your favor, at the request and for the account of [owner or operator name] of [address] up to the aggregate amount of [in words] U.S. dollars (\$ [insert dollar amount]), available upon presentation [insert, if more than 1 Director of a state implementing agency is a beneficiary, "by any 1 of you"] of

(1) your sight draft, bearing reference to this letter of credit, No. _____, and

(2) your signed statement reading as follows: "I certify that the amount of the draft is payable pursuant to regulations issued under authority of Subtitle I of the Resource Conservation and Recovery Act of 1976, as amended."

This letter of credit may be drawn on to cover [insert: taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"] arising from operating the underground storage tank(s) identified below in the amount of [in words] \$ [insert dollar amount] annual aggregate:

[List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than 1 instrument is used to assure different tanks at any 1 facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to 40 C.F.R. 280.22, or the corresponding state requirement, and the name and address of the facility.]

The letter of credit may not be drawn on to cover any of the following:

(a) Any obligation of [insert owner or operator] under a worker's compensation, disability benefits, or unemployment compensation law or other similar law;

(b) Bodily injury to an employee of [insert owner or operator] arising from, and in the course of employment by [insert owner or operator];

(c) Bodily injury or property damage arising from the ownership, maintenance, use or entrustment to others of any aircraft, motor vehicle or watercraft;

(d) Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert owner or operator] that is not the direct result of a release from a petroleum underground storage tank;

(e) Bodily injury or property damage for which [insert owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of 40 C.F.R. 280.93.

This letter of credit is effective as of [date] and shall expire on [date], but such expiration date shall be automatically extended for a period of [at least the length of the original term] on [expiration date] and on each successive expiration date, unless, at least 120 days before the current expiration date, we notify [owner or operator] by certified mail that we have decided not to extend this letter of credit beyond the current expiration date.

In the event that [owner or operator] is so notified, any unused portion of the credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by [owner or operator], as shown on the signed return receipt.

Annual Administrative Code Supplement
1998 – 2000 Edition

Whenever this letter of credit is drawn on under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft directly into the standby trust fund of [owner or operator] in accordance with your instructions. We certify that the wording of this letter of credit is identical to the wording specified in 40 C.F.R. 280.99(b) as such regulations were constituted on the date shown immediately below.

[Signature(s) and title(s) of official(s) of issuing institution]
[Date]

This credit is subject to [insert "the most recent edition of the Uniform Customs and Practice for Documentary Credits, published by the Internal Chamber of Commerce," or "the Uniform Commercial Code"].

(c) An owner or operator who uses a letter of credit to satisfy the requirements of section 280.93 shall also establish a standby trust fund when the letter of credit is acquired. Under the terms of the letter of credit, all amounts paid under a draft by the director of the implementing agency will be deposited by the issuing institution directly into the standby trust fund in accordance with instructions from the director under section 280.112. The standby trust fund shall meet the requirements specified in section 280.103.

(d) The letter of credit shall be irrevocable with a term the issuing institution. The letter of credit shall provide that credit be automatically renewed for the same term as the original term, unless, at 120 days before the current expiration date, the issuing institution notifies the owner or operator by certified mail of its decision not to renew the letter of credit.

Under the terms of the letter of credit, the 120 days will begin on the date when the owner or operator receives the notice, as evidenced by the return receipt.

History: 1998 MR 12, Eff. Dec. 30, 1998.

R 29.2164

Source: 1990 AACS.

R 29.2165 State fund or other state assurance.

Rule 65. Section 280.101 is deleted.

Section 280.101 Deleted.

History: 1990 MR 12, Eff. Jan. 3, 1991.

R 29.2166 Local government bond rating test.

Rule 66. Section 280.104 is amended as follows:

Section 280.104. (a) A general purpose local government owner or operator, a local government, or any combination of owner, operator, or local government serving as a guarantor may satisfy the requirements of section 280.93 by having a currently outstanding issue or issues of general obligation bonds of \$1,000,000.00 or more, excluding refunded obligations, with a Moody's rating of Aaa, Aa, A, or Baa or a Standard and Poor's rating of AAA, AA, A, or BBB.

If a local government has multiple outstanding issues, or if a local government's bonds are rated by both Moody's and Standard and Poor's, then the lowest rating shall be used to determine eligibility. Bonds that are backed by credit enhancement other than municipal bond insurance may not be considered in determining the amount of applicable bonds outstanding.

(b) A local government owner or operator or local government serving as a guarantor which is not a general-purpose local government and which does not have the legal authority to issue general obligation bonds may satisfy the requirements of section 280.93 by having a currently outstanding issue or issues of revenue bonds of \$1,000,000.00 or more, excluding refunded issues, and having a Moody's rating of Aaa, A, A, or Baa or a Standard and Poor's rating of AAA, AA, A, or BBB as the lowest rating for any rated revenue bond issued by the local government. If bonds are rated by both Moody's and Standard and Poor's, then the lower rating for each bond shall be used to determine eligibility. Bonds that are backed by credit enhancement may not be considered in determining the amount of applicable bonds outstanding.

Annual Administrative Code Supplement
1998 - 2000 Edition

(c) The local government owner or operator, a guarantor, or any combination of owner, operator or guarantor shall maintain a copy of its bond rating published within the last 12 months by Moody's or Standard and Poor's.

(d) To demonstrate that it meets the local government bond rating test, the chief financial officer of a general-purpose local government owner or operator, a guarantor, or any combination of owner, operator or guarantor shall sign a letter worded exactly as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted:

Letter from Chief Financial Officer

I am the chief financial officer of [insert: name and address of local government owner or operator, or guarantor]. This letter is in support of the use of the bond rating test to demonstrate financial responsibility for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage"] caused by [insert: "sudden accidental releases" and/or "nonsudden accidental releases"] in the amount of at least [insert: dollar amount] per occurrence and [insert: dollar amount] annual aggregate arising from operating (an) underground storage tank(s).

Underground storage tanks at the following facilities are assured by this bond rating test: [List for each facility: the name and address of the facility where tanks are assured by the bond rating test].

The details of the issue date, maturity, outstanding amount, bond rating, and bond rating agency of all outstanding bond issues that are being used by [name of local government owner or operator, or guarantor] to demonstrate financial responsibility are as follows: [complete table]

Issue Date	Maturity Date	Outstanding Amount
Bond Rating	Rating Agency	

[Moody's or Standard and Poor's]

The total outstanding obligation of [insert amount], excluding refunded bond issues, exceeds the minimum amount of \$1 million. All outstanding general obligation bonds issued by this government that have been rated by Moody's or Standard and Poor's are rated as at least investment grade (Moody's Baa or Standard and Poor's BBB) based on the most recent ratings published within the last 12 months. Neither rating service has provided notification within the last 12 months of downgrading of bond ratings below investment grade or of withdrawal of bond rating other than for repayment of outstanding bond issues.

I hereby certify that the wording of this letter is identical to the wording specified in 40 C.F.R. Part 280.104(d) as such regulations were constituted on the date shown immediately below.

[Signature]

[Name]

[Title]

[Date]

(e) To demonstrate that it meets the local government bond rating test, the chief financial officer of a local government owner or operator, a guarantor, or any other combination of owner, operator or guarantor, other than a general purpose government shall sign a letter worded exactly as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted:

Annual Administrative Code Supplement
1998 - 2000 Edition

Letter from Chief Financial Officer

I am the chief financial officer of [insert: name and address of local government owner or operator, or guarantor]. This letter is in support of the use of the bond rating test to demonstrate financial responsibility for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage"] caused by [insert: "sudden accidental releases" and/or "nonsudden accidental releases"] in the amount of at least [insert: dollar amount] per occurrence and [insert: dollar amount] annual aggregate arising from operating (an) underground storage tank(s). This local government is not organized to provide general governmental services and does not have the legal authority under state law or constitutional provisions to issue general obligation debt.

Underground storage tanks at the following facilities are assured by this bond rating test: [List for each facility: the name and address of the facility where tanks are assured by the bond rating test].

The details of the issue date, maturity, outstanding amount, bond rating, and bond rating agency of all outstanding revenue bond issues that are being used by [name of local government owner or operator, or guarantor] to demonstrate financial responsibility are as follows: [complete table]

Issue Date Rating	Maturity Date Rating Agency	Outstanding Amount	Bond
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[Moody's or Standard and Poor's]

The total outstanding obligation of [insert amount], excluding refunded bond issues, exceeds the minimum amount of \$1 million. All outstanding revenue bonds issued by this government that have been rated by Moody's or Standard and Poor's are rated as at least investment grade (Moody's Baa or Standard and Poor's BBB) based on the most recent ratings published within the last 12 months. The revenue bonds listed are not backed by third-party credit enhancement or are insured by a municipal bond insurance company. Neither rating service has provided notification within the last 12 months of downgrading of bond ratings below investment grade or of withdrawal of bond rating other than for repayment of outstanding bond issues.

I hereby certify that the wording of this letter is identical to the wording specified in 40 C.F.R. Part 280.104(e) as such regulations were constituted on the date shown immediately below.

[Signature]

[Name]

[Title]

[Date]

(f) The director of the implementing agency may require financial condition reports at any time from the local government owner or operator, local government guarantor, or any combination of owner, operator or guarantor. If the director finds, on the basis of financial condition reports or other information, that the local government owner or operator, guarantor, or any combination of owner, operator, or guarantor no longer meets the local government bond rating test requirements of section 280.104, then the local government owner or operator shall obtain alternative coverage within 30 days after notification of such a finding.

(g) If a local government owner or operator using the bond rating test to provide financial assurance finds that it no longer meets the bond rating test requirements, then the local government owner or operator shall obtain alternative coverage within 150 days of the change in status.

Annual Administrative Code Supplement
1998 – 2000 Edition

History: 1998 MR 12, Eff. Dec. 30, 1998.

R 29.2166a Local government financial test.

Rule 66a. Section 280.105 is amended to read as follows:

Section 280.105. (a) A local government owner or operator may satisfy the requirements of section 280.93 by passing the financial test specified in this section. To be eligible to use the financial test, the local government owner or operator shall have the ability and authority to assess and levy taxes or to freely establish fees and charges. To pass the local government financial test, the owner or operator shall meet the criteria of subsection (b)(2) and (3) of this section based on year-end financial statements for the latest completed fiscal year.

(b) The local government owner or operator shall have all of the following information available, as shown in the year-end financial statements for the latest completed fiscal year:

(1) Total revenues: Consists of the sum of general fund operating and nonoperating revenues, including all of the following:

(i) Net local taxes.

(ii) Licenses and permits.

(iii) Fines and forfeitures.

(iv) Revenues from use of money and property.

(v) Charges for services.

(vi) Investment earnings.

(vii) Sales (property, publications, and the like).

(viii) Intergovernmental revenues (restricted and unrestricted).

(ix) Total revenues from all other governmental funds, including enterprise, debt service, capital projects, and special revenues, but excluding revenues to funds held in a trust or agency capacity. For purposes of this test, the calculation of total revenues shall exclude all transfers between funds under the direct control of the local government using the financial test (interfund transfers), liquidation of investments, and issuance of debt.

(2) Total expenditures: Consists of the sum of general fund operating and nonoperating expenditures, including all of the following:

(i) Public safety.

(ii) Public utilities.

(iii) Transportation.

(iv) Public works.

(v) Environmental protection.

(vi) Cultural and recreational.

(vii) Community development.

(viii) Revenue sharing.

(ix) Employee benefits and compensation.

(x) Office management.

(xi) Planning and zoning.

(xii) Capital projects.

(xiii) Interest payments of debt.

(xiv) Payments for retirement of debt principal.

(xv) Total expenditures from all other governmental funds including enterprise, debt service, capital projects, and special revenues. For purposes of this test, the calculation of total expenditures shall exclude all transfers between funds under the direct control of the local government using the financial test (interfund transfers).

(3) Local revenues: Consists of total revenues, as defined in subsection (b)(1) of this section, minus the sum of all transfers from other governmental entities, including all moneys received from federal, state, or local government sources.

(4) Debt service: Consists of the sum of all interest and principal payments on all long-term credit obligations and all interest-bearing short-term credit obligations. Includes interest and principal payments on general obligation bonds, revenue bonds, notes, mortgages, judgments, and interest-bearing warrants.

Annual Administrative Code Supplement
1998 – 2000 Edition

Excludes payments on any of the following:

- (i) Non-interest-bearing short-term obligations.
- (ii) Interfund obligations.
- (iii) Amounts owed in a trust or agency capacity.
- (iv) Advances and contingent loans from other governments.
- (5) Total funds: Consists of the sum of cash and investment securities from all funds, including general, enterprise, debt service, capital projects, and special revenue funds, but excluding employee retirement funds, at the end of the local government's financial reporting year. Includes federal securities, federal agency securities, state and local government securities, and other securities, such as bonds, notes, and mortgages. For purposes of this test, the calculation of total funds shall exclude agency funds, private trust funds, accounts receivable, value of real property, and other non-security assets.
- (6) Population consists of the number of people in the area served by the local government.
- (c) The local government's year-end financial statements, if independently audited, cannot include an adverse auditor's opinion or a disclaimer of opinion. The local government cannot have outstanding issues of general obligation or revenue bonds that are rated as less than investment grade.
- (d) The local government owner or operator shall have a letter signed by the chief financial officer worded as specified in subsection (e) of this section.
- (e) To demonstrate that it meets the financial test under subsection (b) of this section, the chief financial officer of the local government owner or operator shall sign, within 120 days of the close of each financial reporting year, as defined by the 12-month period for which financial statements used to support the financial test are prepared, a letter worded exactly as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted:

Letter from Chief Financial Officer

I am the chief financial officer of [insert: name and address of the owner or operator]. This letter is in support of the use of the local government financial test to demonstrate financial responsibility for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage"] caused by [insert: "sudden accidental releases" and/or "nonsudden accidental releases"] in the amount of at least [insert: dollar amount] per occurrence and [insert: dollar amount] annual aggregate arising from operating [an] underground storage tank[s].

Underground storage tanks at the following facilities are assured by this financial test [list for each facility: the name and address of the facility where tanks assured by this financial test are located. If separate mechanisms or combinations of mechanisms are being used to assure any of the tanks at this facility, list each tank assured by this financial test by the tank identification number provided in the notification submitted pursuant to 40 C.F.R. Part 280.22 or the corresponding state requirements.]

This owner or operator has not received an adverse opinion, or a disclaimer of opinion from an independent auditor on its financial statements for the latest completed fiscal year. Any outstanding issues of general obligation or revenue bonds, if rated, have a Moody's rating of Aaa, Aa, A, or Baa or a Standard and Poor's rating of AAA, AA, A, or BBB; if rated by both firms, the bonds have a Moody's rating of Aaa, Aa, A, or Baa and a Standard and Poor's rating of AAA, AA, A, or BBB.

Worksheet For Municipal Financial Test

PART I, BASIC INFORMATION

1. Total Revenues

(a) Revenues (dollars) Value of revenues excludes liquidation of investments and issuance of debt. Value includes all general fund operating and non-operating revenues, as well as all revenues from all other governmental funds including enterprise, debt service, capital projects, and special revenues, but excluding

Annual Administrative Code Supplement
1998 – 2000 Edition

revenues to funds held in a trust or agency capacity.

(b) Subtract interfund transfer (dollars)

(c) Total Revenues (dollars)

2. Total Expenditures

(a) Expenditures (dollars)

Value consists of the sum of general fund operating and non-operating expenditures including interest payments on debt, payments for retirement of debt principal, and total expenditures from all other governmental funds including enterprise, debt service, capital projects, and special revenues.

(b) Subtract interfund transfers (dollars)

(c) Total expenditures (dollars)

3. Local Revenues

(a) Total Revenues (from 1c) (dollars)

(b) Subtract total intergovernmental transfers (dollars)

(c) Local revenues (dollars)

4. Debt Service

(a) Interest and fiscal charges (dollars)

(b) Add debt retirement (dollars)

(c) Total debt service (dollars)

5. Total funds (dollars)

(Sum of amounts held as cash and investment securities from all funds, excluding amounts held for employee retirement funds, agency funds, and trust funds)

6. Population (persons)

PART II. APPLICATION OF TEST

7. Total Revenues to Population

(a) Total revenues (from 1c)

(b) Population (from 6)

(c) Divide 7a by 7b

(d) Subtract 417

Annual Administrative Code Supplement
1998 – 2000 Edition

- (e) Divide by 5,212
- (f) Multiply by 4.095
- 8. Total Expenses to Population
 - (a) Total expenses (from 2c)
 - (b) Population (from 6)
 - (c) Divide 8a by 8b
 - (d) Subtract 524
 - (e) Divide by 5,401
 - (f) Multiply by 4.095
- 9. Local Revenues to Total Revenues
 - (a) Local Revenues (from 3c)
 - (b) Total Revenues (from 1c)
 - (c) Divide 9a by 9b
 - (d) Subtract .695
 - (e) Divide by .205
 - (f) Multiply by 2.840
- 10. Debt Service to Population
 - (a) Debt Service (from 4d)
 - (b) Population (from 6)
 - (c) Divide 10a by 10b
 - (d) Subtract 51
 - (e) Divide by 1,038
 - (f) Multiply by -1.866
- 11. Debt Service to Total Revenues
 - (a) Debt Service (from 4d)
 - (b) Total Revenues (from 1c)

Annual Administrative Code Supplement
1998 – 2000 Edition

- (c) Divide 11a by 11b
 - (d) Subtract .068
 - (e) Divide by .259
 - (f) Multiply by -3.533
12. Total Revenues to Total Expenses
- (a) Total Revenues (from 1c)
 - (b) Total Expenses (from 2c)
 - (c) Divide 12a by 12b
 - (d) Subtract .910
 - (e) Divide by .899
 - (f) Multiply by 3.458
13. Funds Balance to Total Revenues
- (a) Total Funds (from 5)
 - (b) Total Revenues (from 1c)
 - (c) Divide 13a by 13b
 - (d) Subtract .891
 - (e) Divide by 9.156
 - (f) Multiply by 3.270
14. Funds Balance to Total Expenses
- (a) Total Funds (from 5)
 - (b) Total Expenses (from 2c)
 - (c) Divide 14a by 14b
 - (d) Subtract .866
 - (e) Divide by 6.409
 - (f) Multiply by 3.270
15. Total Funds to Population
- (a) Total Funds (from 5)

Annual Administrative Code Supplement
1998 – 2000 Edition

- (b) Population (from 6)
- (c) Divide 15a by 15b
- (d) Subtract 270
- (e) Divide by 4,548
- (f) Multiply by 1.866

16. Add $7f + 8f + 9f + 10f + 11f + 12f + 13f + 14f + 15f + 4.937$.

I hereby certify that the financial index shown on line 16 of the worksheet is greater than zero and that the wording of this letter is identical to the wording specified in 40 C.F.R. Part 280.105(c) as such regulations were constituted on the date shown immediately below.

[Signature]

[Name]

[Title]

[Date]

(f) If a local government owner or operator using the test to provide financial assurance finds that it no longer meets the requirements of the financial test based on the year-end financial statements, then the owner or operator shall obtain alternative coverage within 150 days of the end of the year for which financial statements have been prepared.

(g) The director of the implementing agency may require reports of financial condition at any time from the local government owner or operator. If the director finds, on the basis of the reports or other information, that the local government owner or operator no longer meets the financial test requirements of (b) to (e), then the owner or operator shall obtain alternate coverage within 30 days after notification of the finding.

(h) If the local government owner or operator fails to obtain alternate assurance within 150 days of finding that it no longer meets the requirements of the financial test based on the year-end financial statements or within 30 days of notification by the director of the implementing agency that it no longer meets the requirements of the financial test, then the owner or operator shall notify the director of the failure within 10 days.

History: 1998 MR 12, Eff. Dec. 30, 1998.

R 29.2167 Local government guarantee.

Rule 67. Section 280.106 is amended to read as follows:

Section 280.106. (a) A local government owner or operator may satisfy the requirements of section 280.93 by obtaining a guarantee that conforms to the requirements of this section. The guarantor shall be either the state in which the local government owner or operator is located or a local government having a substantial governmental relationship with the owner and operator and issuing the guarantee as an act incident to the relationship. A local government acting as the guarantor shall demonstrate 1 of the following:

- (1) That it meets the bond rating test requirement of section 280.104 and shall deliver a copy of the chief financial officer's letter as contained in section 280.104(c) to the local government owner or operator.
- (2) That it meets the worksheet test requirements of section 280.105 and shall deliver a copy of the chief financial officer's letter as contained in section 280.105(c) to the local government owner or operator.
- (3) That it meets the local government fund requirements of section 280.107(a), (b), or (c) and shall deliver a

Annual Administrative Code Supplement
1998 - 2000 Edition

copy of the chief financial officer's letter as contained in section 280.107 to the local government owner or operator.

(b) If the local government guarantor is unable to demonstrate financial assurance under section 280.104, 280.105, 280.107(a), 280.107(b), or 280.107 (c) at the end of the financial reporting year, then the guarantor shall send, by certified mail, before cancellation or nonrenewal of the guarantee, notice to the owner or operator. The guarantee will terminate not less than 120 days after the date the owner or operator receives the notification, as evidenced by the return receipt. The owner or operator shall obtain alternative coverage as specified in section 280.114(c).

(c) The guarantee agreement shall be worded as specified in subsection (d) or (e) of this section, depending on which of the following alternative guarantee arrangements is selected:

(1) If, in the default or incapacity of the owner or operator, the guarantor guarantees to fund a standby trust as directed by the director of the implementing agency, then the guarantee shall be worded as specified in subsection (d) of this section.

(2) If, in the default or incapacity of the owner or operator, the guarantor guarantees to make payments as directed by the director of the implementing agency for taking corrective action or compensating third parties for bodily injury and property damage, then the guarantee shall be worded as specified in subsection (e) of this section.

(d) If the guarantor is a state, then the local government guarantee with standby trust shall be worded as specified in subdivision (1) of this subsection, except that instructions in brackets are to be replaced with relevant information and the brackets deleted. If the guarantor is a local government, then the local government guarantee with standby trust shall be worded as specified in subdivision (2) of this subsection, except that instructions in brackets are to be replaced with relevant information and the brackets deleted. Subdivisions (1) and (2) of this subsection read as follows:

(1) Local government guarantee with standby trust made by a state guarantee made this [date] by [name of state], herein referred to as guarantor, to [the state implementing agency] and to any and all third parties, and obliges, on behalf of [local government owner or operator].

Recitals

(i) Guarantor is a state.

(ii) [Local government owner or operator] owns or operates the following underground storage tank(s) covered by this guarantee: [list the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than 1 instrument is used to assure different tanks at any 1 facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to 40 C.F.R. Part 280 or the corresponding state requirement, and the name and address of the facility.] This guarantee satisfies 40 C.F.R. Part 280, subpart H, requirements for assuring funding for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the above identified underground storage tank(s) in the amount of [insert dollar amount] per occurrence and [insert dollar amount] annual aggregate.

(iii) Guarantor guarantees to [implementing agency] and to any and all third parties that: In the event that [local government owner or operator] fails to provide alternative coverage within 60 days after receipt of a notice of cancellation of this guarantee and the [director of the implementing agency] has determined or suspects that a release has occurred at an underground storage tank covered by this guarantee, the guarantor, upon instructions from the [director] shall fund a standby trust fund in accordance with the provision of 40 C.F.R. 280.112, in an amount not to exceed the coverage limits specified above.

In the event that the [director] determines that [local government owner or operator] has failed to perform corrective action for releases arising out of the operation of the above-identified tank(s) in accordance with 40 C.F.R. Part 280, subpart F, the guarantor upon written instructions from the [director] shall fund a standby trust fund in accordance with the provisions of 40 C.F.R. 280.112, in an amount not to exceed the coverage limits specified above.

Annual Administrative Code Supplement
1998 – 2000 Edition

If [owner or operator] fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by ["sudden" and/or "nonsudden"] accidental releases arising from the operation of the above-identified tank(s), or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from such injury or damage, the guarantor, upon written instructions from the [director], shall fund a standby trust in accordance with the provisions of 40 C.F.R. 280.112 to satisfy such judgment(s), award(s), or settlement agreement(s) up to the limits of coverage specified above.

(iv) Guarantor agrees to notify [owner or operator] by certified mail of a voluntary or involuntary proceeding under title 11 (bankruptcy), U.S. Code naming guarantor as debtor, within 10 days after commencement of the proceeding.

(v) Guarantor agrees to remain bound under this guarantee notwithstanding any modification or alteration of any obligation of [owner or operator] pursuant to 40 C.F.R. Part 280.

(vi) Guarantor agrees to remain bound under this guarantee for so long as [local government owner or operator] must comply with the applicable financial responsibility requirements of 40 C.F.R. Part 280, subpart H, for the above identified tank(s), except that guarantor may cancel this guarantee by sending notice by certified mail to [owner or operator], such cancellation to become effective no earlier than 120 days after receipt of such notice by [owner or operator], as evidenced by the return receipt.

(vii) The guarantor's obligation does not apply to any of the following:

(A) Any obligation of [local government owner or operator] under a workers compensation, disability benefits, or unemployment compensation law or other similar law;

(B) Bodily injury to an employee of [insert: local government owner or operator] arising from, and in the course of, employment by [insert: local government owner or operator];

(C) Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;

(D) Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert: local government owner or operator] that is not the direct result of a release from a petroleum underground storage tank;

(E) Bodily damage or property damage for which [insert owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of 40 C.F.R. 280.93.

(viii) Guarantor expressly waives notice of acceptance of this guarantee by [the implementing agency], by any or all third parties, or by [local government owner or operator],

I hereby certify that the wording of this guarantee is identical to the wording specified in 40 C.F.R. 280.106(d) as such regulations were constituted on the effective date shown immediately below.

Effective Date: _____

[Name of guarantor]

[Authorized signature for guarantor]

[Name of person signing]

[Title of person signing]

Signature of witness or notary:

(2) Local government guarantee with standby trust made by a local government.

Guarantee made this [date] by [name of guaranteeing entity], a local government organized under the laws of [name of state], herein referred to as guarantor, to [the state implementing agency] and to any and all

Annual Administrative Code Supplement
1998 - 2000 Edition

third parties, and obliges, on behalf of [local government owner or operator].

Recitals

(i) Guarantor meets or exceeds [select 1: the local bond rating test requirements of 40 C.F.R. 280.104, the local government financial test requirements of 40 C.F.R. 280.105, or the local government fund under 40 C.F.R.

Part 280.107(a), (b), or (c)].

(ii) [Local government owner or operator] owns or operates the following underground storage tank(s) covered by this guarantee: [list the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than 1 instrument is used to assure different tanks at any 1 facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to 40 C.F.R. Part 280 or the corresponding state requirement, and the name and address of the facility.] This guarantee satisfies 40 C.F.R. Part 280, subpart H, requirements for assuring funding for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the above-identified underground storage tank(s) in the amount of [insert dollar amount] per occurrence and [insert:

dollar amount] annual aggregate.

(iii) Incident to our substantial governmental relationship with [local government owner or operator], guarantor guarantees to [implementing agency] and to any and all third parties that:

In the event that [local government owner or operator] fails to provide alternative coverage within 60 days after receipt of a notice of cancellation of this guarantee and the [director of the implementing agency] has determined or suspects that a release has occurred at an underground storage tank coverage by this guarantee, the guarantor, upon instructions from the [director] shall fund a standby trust fund in accordance with the provisions of 40 C.F.R. 280.112, in an amount not to exceed the coverage limits specified above.

In the event that the [director] determines that [local government owner or operator] has failed to perform corrective action for releases arising out of the operation of the above-identified tank(s) in accordance with 40 C.F.R. 280, subpart F, the guarantor upon written instructions from the [director] shall fund a standby trust fund in accordance with the provisions of 40 C.F.R. Part 280.112, in an amount not to exceed the coverage limits specified above.

If [owner or operator] fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by ["sudden" and/or "nonsudden"] accidental releases arising from the operation of the above identified tank(s), or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from such injury or damage, the guarantor, upon written instructions from the [director], shall fund a standby trust in accordance with the provisions of 40 C.F.R. 280.112 to satisfy such judgment(s), award(s), or settlement agreement(s) up to the limits of coverage specified above.

(iv) Guarantor agrees that, if at the end of any fiscal year before cancellation of this guarantee, the guarantor fails to meet or exceed the requirements of the financial responsibility mechanism specified in paragraph (i) of this subdivision, guarantor shall send within 120 days of such failure, by certified mail, notice to [local government owner or operator], as evidenced by the return receipt.

(v) Guarantor agrees to notify [owner or operator], by certified mail of a voluntary or involuntary proceeding under title 11 {bankruptcy}, U.S. Code naming guarantor as debtor, within 10 days after commencement of the proceeding.

(vi) Guarantor agrees to remain bound under this guarantee notwithstanding any modification or alteration of any obligation of [owner or operator] pursuant to 40 C.F.R. Part 280.

(vii) Guarantor agrees to remain bound under this guarantee for so long as [local government owner or operator] must comply with the applicable financial responsibility requirements of 40 C.F.R. Part 280,

Annual Administrative Code Supplement
1998 - 2000 Edition

subpart H, for the above identified tank(s), except that guarantor may cancel this guarantee by sending notice by certified mail to [owner or operator], such cancellation to become effective no earlier than 120 days after receipt of such notice by [owner or operator], as evidenced by the return receipt.

(viii) The guarantor's obligation does not apply to any of the following:

- (A) Any obligation of [local government owner or operator] under a workers' compensation, disability benefits, or unemployment compensation law or other similar law;
 - (B) Bodily injury to an employee of [insert: local government owner or operator] arising from, and in the course of, employment by [insert: local government owner or operator];
 - (C) Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;
 - (D) Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert: local government owner or operator] that is not the direct result of a release from a petroleum underground storage tank;
 - (E) Bodily damage or property damage for which [insert: owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of 40 C.F.R. 280.93.
- (ix) Guarantor expressly waives notice of acceptance of this guarantee by [the implementing agency], by any or all third parties, or by [local government owner or operator].

I hereby certify that the wording of this guarantee is identical to the wording specified in 40 C.F.R. 280.106(d) as such regulations were constituted on the effective date shown immediately below.

Effective date: _____

[Name of guarantor]

[Authorized signature for guarantor]

[Name of person signing]

[Title of person signing]

Signature of witness or notary

(e) If the guarantor is a state, the local government guarantee without standby trust shall be worded as specified in subdivision (1) of this subsection, except that instructions in brackets are to be replaced with relevant information and the brackets deleted. If the guarantor is a local government, the local government guarantee without standby trust shall be worded as specified in subdivision (2) of this subsection, except that instructions in brackets are to be replaced with relevant information and the brackets deleted. Subdivisions (1) and (2) of this subsection read as follows:

(1) Local government guarantee without standby trust made by a state.

Guarantee made this [date] by [name of state], herein referred to as guarantor, to [the state implementing agency] and to any and all third parties, and obliges, on behalf of [local government owner or operator].

Recitals

(i) Guarantor is a state.

(ii) [Local government owner or operator] owns or operates the following underground storage tank(s) covered by this guarantee: [list the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than 1 instrument is used to assure different tanks at any 1 facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to 40 C.F.R. Part 280 or the corresponding state requirement, and the name

Annual Administrative Code Supplement
1998 - 2000 Edition

and address of the facility.] This guarantee satisfies 40 C.F.R. Part 280, subpart H, requirements for assuring funding for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the above identified underground storage tank(s) in the amount of [insert: dollar amount] per occurrence and [insert: dollar amount] annual aggregate.

(iii) Guarantor guarantees to [implementing agency] and to any and all third parties and obliges that:

In the event that [local government owner or operator] fails to provide alternative coverage within 60 days after receipt of a notice of cancellation of this guarantee and the [director of the implementing agency] has determined or suspects that a release has occurred at an underground storage tank covered by this guarantee, the guarantor, upon written instructions for the [director] shall make funds available to pay for corrective actions and compensate third parties for bodily injury and property damage in an amount not to exceed the coverage limits specified above.

In the event that the [director] determines that [local government owner or operator] has failed to perform corrective action for releases arising out of the operation of the above identified tank(s) in accordance with 40 C.F.R. Part 280, subpart F, the guarantor upon written instructions from the [director] shall make funds available to pay for corrective actions in an amount not to exceed the coverage limits specified above.

If [owner or operator] fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by ["sudden" and/or "nonsudden"] accidental releases arising from the operation of the above identified tank(s), or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from such injury or damage, the guarantor, upon written instructions from the [director], shall make funds available to compensate third parties for bodily injury and property damage in an amount not to exceed the coverage limits specified above.

(iv) Guarantor agrees to notify [owner or operator] by certified mail of a voluntary or involuntary proceeding under title 11 {bankruptcy}, U.S. Code naming guarantor as debtor, within 10 days after commencement of the proceeding.

(v) Guarantor agrees to remain bound under this guarantee notwithstanding any modification or alteration of any obligation of [owner or operator] pursuant to 40 C.F.R. Part 280.

(vi) Guarantor agrees to remain bound under this guarantee for so long as [local government owner or operator] must comply with the applicable financial responsibility requirements of 40 C.F.R. Part 280, subpart H, for the above identified tank(s), except that guarantor may cancel this guarantee by sending notice by certified mail to [owner or operator], such cancellation to become effective no earlier than 120 days after receipt of such notice by [owner or operator], as evidenced by the return receipt. If notified of a probable release, the guarantor agrees to remain bound to the terms of this guarantee for all charges arising from the release, up to the coverage limits specified above, notwithstanding the cancellation of the guarantee with respect to future releases.

(vii) The guarantor's obligation does not apply to any of the following:

(A) Any obligation of [local government owner or operator] under a workers' compensation disability benefits, or unemployment compensation law or other similar law;

(B) Bodily injury to an employee of [insert local government owner or operator] arising from, and in the course of, employment by [insert: local government owner or operator];

(C) Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;

(D) Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert: local government owner or operator] that is not the direct result of a release from a petroleum underground storage tank;

(E) Bodily damage or property damage for which [insert: owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of 40 C.F.R. 280.93.

(viii) Guarantor expressly waives notice of acceptance of this guarantee by [the implementing agency], by any or all third parties, or by [local government owner or operator].

Annual Administrative Code Supplement
1998 - 2000 Edition

I hereby certify that the wording of this guarantee is identical to the wording specified in 40 C.F.R. 280.106(e) as such regulations were constituted on the effective date shown immediately below.

Effective date: _____

[Name of guarantor]

[Authorized signature for guarantor]

[Name of person signing]

[Title of person signing]

Signature of witness or notary:

(2) Local government guarantee without standby trust made by a local government.

Guarantee made this [date] by [name of guaranteeing entity], a local government organized under the laws of [name of state], herein referred to as guarantor, to [the state implementing agency] and to any and all third parties, and obliges, on behalf of [local government owner or operator].

Recitals

(i) Guarantor meets or exceeds [select 1: the local government bond rating test requirements of 40 C.F.R. 280.104, the local government financial test requirements of 40 C.F.R. 280.105, the local government fund under 40 C.F.R. 280.107(a), (b), or (c)].

(ii) [Local government owner or operator] owns or operates the following underground storage tank(s) covered by this guarantee: [list the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than 1 instrument is used to assure different tanks at any 1 facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to 40 C.F.R. Part 280 or the corresponding state requirement, and the name and address of the facility.] This guarantee satisfies 40 C.F.R. Part 280, subpart H, requirements for assuring funding for [insert: "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the above identified underground storage tank(s) in the amount of [insert: dollar amount] per occurrence and [insert: dollar amount] annual aggregate.

(iii) Incident to our substantial governmental relationship with [local government owner or operator], guarantor guarantees to [implementing agency] and to any and all third parties and obliges that:

In the event that [local government owner or operator] fails to provide alternative coverage within 60 days after receipt of a notice of cancellation of this guarantee and the [director of the implementing agency] has determined or suspects that a release has occurred at an underground storage tank covered by this guarantee, the guarantor, upon written instructions from the [director] shall make funds available to pay for corrective actions and compensate third parties for bodily injury and property damage in an amount not to exceed the coverage limits specified above.

In the event that the [director] determines that [local government owner or operator] has failed to perform corrective action for releases arising out of the operation of the above identified tank(s) in accordance with 40 C.F.R. Part 280, subpart F, the guarantor upon written instructions from the [director] shall make funds available to pay for corrective actions in an amount not to exceed the coverage limits specified above.

Annual Administrative Code Supplement
1998 - 2000 Edition

If [owner or operator] fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by ["sudden" and/or "nonsudden"] accidental releases arising from the operation of the above identified tank(s), or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from such injury or damage, the guarantor, upon written instructions from the [director], shall make funds available to compensate third parties for bodily injury and property damage in an amount not to exceed the coverage limits specified above.

(iv) Guarantor agrees that if at the end of any fiscal year before cancellation of this guarantee, the guarantor fails to meet or exceed the requirements of the financial responsibility mechanism specified in paragraph (i) of this subdivision, guarantor shall send within 120 days of such failure, by certified mail, notice to [local government owner or operator], as evidenced by the return receipt.

(v) Guarantor agrees to notify [owner or operator] by certified mail of a voluntary or involuntary proceeding under title 11 {bankruptcy}, U.S. Code naming guarantor as debtor, within 10 days after commencement of the proceeding.

(vi) Guarantor agrees to remain bound under this guarantee notwithstanding any modification or alteration of any obligation of [owner or operator] pursuant to 40 C.F.R. Part 280.

(vii) Guarantor agrees to remain bound under this guarantee for so long as [local government owner or operator] must comply with the applicable financial responsibility requirements of 40 C.F.R. 280, subpart H, for the above identified tank(s), except that guarantor may cancel this guarantee by sending notice by certified mail to [owner or operator], such cancellation to become effective no earlier than 120 days after receipt of such notice by [owner or operator], as evidenced by the return receipt. If notified of a probable release, the guarantor agrees to remain bound to the terms of this guarantee for all charges arising from the release, up to the coverage limits specified above, notwithstanding the cancellation of the guarantee with respect to future releases.

(viii) The guarantor's obligation does not apply to any of the following:

(A) Any obligation of [local government owner or operator] under a workers' compensation disability benefits, or unemployment compensation law or other similar law;

(B) Bodily injury to an employee of [insert: local government owner or operator] arising from, and in the course of, employment by [insert: local government owner or operator];

(C) Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;

(D) Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by [insert: local government owner or operator] that is not the direct result of a release from a petroleum underground storage tank;

(E) Bodily damage or property damage for which [insert: owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of 40 C.F.R. 280.93.

(ix) Guarantor expressly waives notice of acceptance of this guarantee by [the implementing agency], by any or all third parties, or by [local government owner or operator].

I hereby certify that the wording of this guarantee is identical to the wording specified in 40 C.F.R. 280.106(e) as such regulations were constituted on the effective date shown immediately below.

Effective date: _____

[Name of guarantor]

[Authorized signature for guarantor]

[Name of person signing]

[Title of person signing]

Annual Administrative Code Supplement
1998 - 2000 Edition

Signature of witness or notary:

History: 1990 MR 12, Eff. Jan. 3, 1991; 1998 MR 12, Eff. Dec. 30, 1998.

R 29.2168 Local government fund.

Rule 68. Section 280.107 is amended to read as follows:

Section 280.107. A local government owner or operator may satisfy the requirements of section 280.93 by establishing a dedicated fund account that conforms to the requirements of this section. Except as specified in subsection (b) of this section, a dedicated fund may not be commingled with other funds or otherwise used in normal operations. A dedicated fund will be considered eligible if it meets any of the following requirements:

(a) The fund is dedicated by state constitutional provision or by local government statute, charter, ordinance, or order to pay for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks and is funded for the full amount of coverage required under section 280.93, or is funded for part of the required amount of coverage and is used in combination with another mechanism or mechanisms that provide the remaining coverage.

(b) The fund is dedicated by state constitutional provision or by local government statute, charter, ordinance, or order as a contingency fund for general emergencies, including taking corrective action and compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks, and is funded for 5 times the full amount of coverage required under section 280.93 or is funded for part of the required amount of coverage and is used in combination with another mechanism or mechanisms that provide the remaining coverage. If the fund is funded for less than 5 times the amount of coverage required under section 280.93, then the amount of financial responsibility demonstrated by the fund may not be more than 1/5 the amount in the fund.

(c) The fund is dedicated by state constitutional provision or by local government statute, charter, ordinance, or order to pay for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks. A payment is made to the fund once every year for 7 years until the fund is fully funded. The 7-year period is hereafter referred to as the "pay-in period." The amount of each payment shall be determined by the following formula:

$$\frac{TF - CF}{Y}$$

Where TF is the total required financial assurance for the owner or operator, CF is the current amount in the fund, and Y is the number of years remaining in the pay-in period, and either of the following provisions applies:

(1) The local government owner or operator has available bonding authority, approved through voter referendum if approval is necessary before the issuance of bonds, for an amount equal to the difference between the required amount of coverage and the amount held in the dedicated fund. The bonding authority shall be available for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks.

(2) The local government owner or operator has a letter signed by the appropriate state attorney general stating that the use of the bonding authority will not increase the local government's debt beyond the legal debt ceilings established by the relevant state laws. The letter shall also state that prior voter approval is not necessary before use of the bonding authority.

(d) To demonstrate that it meets the requirements of the local government fund, the chief financial officer of the local government owner or operator or guarantor shall sign a letter worded exactly as follows, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted:

Annual Administrative Code Supplement
1998 – 2000 Edition

Letter From Chief Financial Officer

I am the chief financial officer of [insert: name and address of local government owner or operator, or guarantor]. This letter is in support of the use of the local government fund mechanism to demonstrate financial responsibility for [insert: "taking corrective action: and/or "compensating third parties for bodily injury and property damage"] caused by [insert: "sudden accidental releases: and/or "nonsudden accidental releases"] in the amount of at least [insert: dollar amount] per occurrence and insert: dollar amount] annual aggregate arising from operating (an) underground storage tank(s).

Underground storage tanks at the following facilities are assured by this local government fund mechanism: [list for each facility: the name and address of the facility where tanks are assured by the local government fund].

[Insert: "the local government fund is funded for the full amount of coverage required under section 280.93, or funded for part of the required amount of coverage and used in combination with other mechanism(s) that provide the remaining coverage." Or "the local government fund is funded for 10 times the full amount of coverage required under section 280.93, or funded for part of the required amount of coverage and used in combination with other mechanism(s) that provide the remaining coverage," or "a payment is made to the fund once every year for 7 years until the fund is fully-funded and [name of local government owner or operator] has available bonding authority, approved through voter referendum, of an amount equal to the difference between the required amount of coverage and the amount held in the dedicated fund" or "a payment is made to the fund once every year for 7 years until the fund is fully-funded and I have attached a letter signed by the state attorney general stating that (1) the use of the bonding authority will not increase the local government's debt beyond the legal debt ceilings established by the relevant state laws and (2) that prior voter approval is not necessary before use of the bonding authority"].

The details of the local government fund are as follows:

Amount in fund (market value of fund of close of last fiscal year): _____

[If fund balance is incrementally funded as specified in § 280.107(c), insert:

Amount added to fund in the most recently completed fiscal year:

Number of years remaining in the pay-in period: _____

A copy of the state constitutional provision, or local government statute, charter, ordinance or order dedicating the fund is attached.

I hereby certify that the wording of this letter is identical to the wording specified in 40 C.F.R. 280.107(d) as such regulations were constituted on the date shown immediately below.

[Signature]

[Name]

[Title]

[Date]

History: 1998 MR 12, Eff. Dec. 30, 1998.

Annual Administrative Code Supplement
1998 – 2000 Edition

R 29.2168a Substitution of financial assurance mechanisms by owner or operator.

Rule 68a. Section 280.108 is amended to read as follows:

Section 280.108. (a) An owner or operator may substitute any alternate financial assurance mechanisms as specified in this subpart if, at all times, the owner operator maintains an effective financial assurance mechanism or combination of mechanisms that satisfies the requirements of section 280.93.

(b) After obtaining alternate financial assurance as specified in this subpart, an owner or operator may cancel a financial assurance mechanism by providing notice to the provider of financial assurance.

History: 1998 MR 12, Eff. Dec. 30, 1998.

R 29.2168b Cancellation or nonrenew by provider of financial assurance.

Rule 68b. Section 280.109 is amended to read as follows:

Section 280.109. (a) A provider of financial assurance may cancel or fail to renew an assurance mechanism by sending a notice of termination, by certified mail, to the owner or operator. Termination of a local government guarantee, a guarantee, a surety bond, or a letter of credit may not occur until 120 days after the date on which the owner or operator receives the notice of termination, as evidenced by the return receipt. Termination of insurance or risk retention coverage, except for nonpayment or misrepresentation by the insured, or state-funded assurance may not occur until 60 days after the date on which the owner or operator receives the notice of termination, as evidenced by the return receipt. Termination for nonpayment of premium or misrepresentation by the insured may not occur until a minimum of 10 days after the date on which the owner or operator receives the notice of termination, as evidenced by the return receipt.

(b) If a provider of financial responsibility cancels or fails to renew for reasons other than incapacity of the provider as specified in section 280.114, then the owner or operator shall obtain alternate coverage as specified in this section within 60 days after receipt of the notice of termination. If the owner or operator fails to obtain alternate coverage within 60 days after receipt of the notice of termination, then the owner or operator shall notify the director of the implementing agency of the failure and submit all of the following information:

(1) The name and address of the provider of financial assurance.

(2) The effective date of termination.

(3) Evidence of the financial assistance mechanism subject to the termination maintained in accordance with section 280.107(b).

History: 1998 MR 12, Eff. Dec. 30, 1998.

R 29.2168c Reporting by owner or operator.

Rule 68c. Section 280.110 is amended to read as follows:

Section 280.110. (a) An owner or operator shall submit the appropriate forms listed in section 280.111(b) documenting current evidence of financial responsibility to the director of the implementing agency as follows:

(1) Within 30 days after the owner or operator identifies a release from an underground storage tank required to be reported under section 280.53 or 280.61.

(2) If the owner or operator fails to obtain alternate coverage as required by this subpart, within 30 days after the owner or operator receives notice of:

(i) Commencement of a voluntary or involuntary proceeding under title 11 (bankruptcy), U.S. Code, naming a provider of financial assurance as a debtor, (ii) Suspension or revocation of the authority of a provider of financial assurance to issue a financial assurance mechanism,

(iii) Failure of a guarantor to meet the requirements of the financial test, (iv) Other incapacity of a provider of financial assurance, or

(3) As required by sections 280.95(g) and 280.109(b).

(b) An owner or operator must certify compliance with the financial responsibility requirements of this part as specified in the new tank notification form when notifying the appropriate state or local agency of the installation of a new underground storage tank under section 280.22.

(c) The director of the implementing agency may require an owner or operator to submit evidence of financial assurance as described in section 280.111(b) or other information relevant to compliance with this subpart at

Annual Administrative Code Supplement
1998 – 2000 Edition

any time.

History: 1998 MR 12, Eff. Dec. 30, 1998.

R 29.2168d Recordkeeping.

Rule 68d. Section 280.111 is amended to read as follows:

Section 280.111 (a) Owners or operators must maintain evidence of all financial assurance mechanisms used to demonstrate financial responsibility under this subpart for an underground storage tank until released from the requirements of this subpart under section 208.113. An owner or operator must maintain such evidence at the underground storage tank site or the owner's or operator's place of work. Records maintained off-site must be made available upon request of the implementing agency.

(b) An owner or operator must maintain the following types of evidence of financial responsibility:

(1) An owner or operator using an assurance mechanism specified in section 280.95 through section 280.100 or section 280.102 or section 280.104 through section 280.107 must maintain a copy of the instrument worded as specified.

(2) An owner or operator using a financial test or guarantee, or a local government financial test or a local government guarantee supported by the local government financial test must maintain a copy of the chief financial officer's letter based on year-end financial statements for the most recent completed financial reporting year. Such evidence must be on file no later than 120 days after the close of the financial reporting year.

(3) An owner or operator using a guarantee, surety bond, or letter of credit must maintain a copy of the signed standby trust fund agreement and copies of any amendments to the agreement.

(4) A local government owner or operator using a local government guarantee under section 280.106 (d) must maintain a copy of the signed standby trust fund agreement and copies of any amendments to the agreement.

(5) A local government owner or operator using the local government bond rating test under section 280.104 must maintain a copy of its bond rating published within the last twelve months by Moody's or Standard and Poor's.

(6) A local government owner or operator using the local government guarantee under section 280.106, where the guarantor's demonstration of financial responsibility relies on the bond rating test under section 280.104 must maintain a copy of the guarantor's bond rating published within the last twelve months by Moody's or Standard and Poor's.

(7) An owner or operator using an insurance policy or risk retention group coverage must maintain a copy of the signed insurance policy or risk retention group coverage policy, with the endorsement or certificate of insurance and any amendments to the agreements.

(8) An owner or operator covered by a state fund or other state assurance must maintain on file a copy of any evidence of coverage supplied by or required by the state under section 280.101(d).

(9) An owner or operator using a local government fund under section 280.107 must maintain the following documents.

(i) A copy of the state constitutional provision or local government statute, charter, ordinance, or order dedicating the fund, and (ii) Year-end financial statements for the most recent completed financial reporting year showing the amount in the fund. If the fund is established under section 280.107(a)(3) using incremental funding backed by bonding authority, the financial statements must show the previous year's balance, the amount of funding during the year, and the closing balance in the fund.

(iii) If the fund is established under section 280.107(a)(3) using incremental funding backed by bonding authority, the owner or operator must also maintain documentation of the required bonding authority, including either the results of a voter referendum (under section 280.107(a)(3)(i)), or attestation by the state attorney general as specified under section 280.107(a)(3)(ii).

(10) A local government owner or operator using the local government guarantee supported by the local government fund must maintain a copy of the guarantor's year-end financial statements for the most recent completed financial reporting year showing the amount of the fund.

(11) An owner or operator using an assurance mechanism specified in sections 280.95 through 280.107 must maintain an updated copy of a certification of financial responsibility worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

Annual Administrative Code Supplement
1998 – 2000 Edition

Certification Of Financial Responsibility

[Owners or operator] hereby certifies that it is in compliance with the requirements of subpart H of 40 C.F.R. Part 280.

The financial assurance mechanism(s) used to demonstrate financial responsibility under subpart H of 40 C.F.R. Part 280 is (are) as follows:

[For each mechanism, list the type of mechanism, name of issuer, mechanism number (if applicable), amount of coverage, effective period of coverage and whether the mechanism covers "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by" either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases."]

[Signature of owner or operator]

[Name of owner or operator]

[Title]

[Date]

[Signature of witness or notary]

[Name of witness or notary]

[Date]

The owner or operator must update this certification whenever the financial assurance mechanism(s) used to demonstrate financial responsibility change(s).

History: 1998 MR 12, Eff. Dec. 30, 1998.

R 29.2169 Drawing on financial assurance mechanisms.

Rule 69. Section 280.112 is amended to read as follows:

Section 280.112. (a) Except as specified in subsection (d) of this section, the director of the implementing agency shall require the guarantor, surety, or institution issuing a letter of credit to place the amount of funds stipulated by the director, up to the limit of funds provided by the financial assurance mechanism, into the standby trust if either of the following provisions applies:

(1) The owner or operator fails to establish alternate financial assurance within 60 days after receiving notice of cancellation of the guarantee, surety bond, letter of credit, or, as applicable, other financial assurance mechanism and the director determines or suspects that a release from an underground storage tank covered by the mechanism has occurred and notifies the owner or operator of the determination or suspicion or the owner or operator has notified the director under subpart E or F of these rules of a release from an underground storage tank covered by the mechanism.

(2) The conditions of subsection (b)(1) or (2)(i) or (ii) of this section are satisfied.

(b) The director of the implementing agency may draw on a standby trust fund when in either of the following situations:

(1) The director makes a final determination that a release has occurred and immediate or long-term corrective action for the release is needed, and the owner or operator, after appropriate notice and opportunity to comply, has not conducted corrective action as required under 40 C.F.R. part 280, subpart F.

(2) The director has received either of the following:

Annual Administrative Code Supplement
1998 – 2000 Edition

(i) Certification from the owner or operator and the third-party liability claimant or claimants and from attorneys representing the owner or operator and the third-party liability claimant or claimants that a third-party liability claim should be paid. The certification shall be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

Certification of Valid Claim

The undersigned, as principals and as legal representatives of [insert: owner or operator] and [insert: name and address of third-party claimant], hereby certify that the claim of bodily injury [and/or] property damage caused by an accidental release arising from operating [owner's or operator's] underground storage tank should be paid in the amount of \$[_____].

[Signatures]

Owner or operator

Attorney for owner or operator

[Notary] Date

[Signatures]

Claimant(s)

Attorney(s) for claimant(s)

[Notary] Date

(ii) A valid final court order establishing a judgment against the owner or operator for bodily injury or property damage caused by an accidental release from an underground storage tank covered by financial assurance under this subpart and the director determines that the owner or operator has not satisfied the judgment.

(c) If the director of the implementing agency determines that the amount of corrective action costs and third-party liability claims eligible for payment under subsection (b) of this section may exceed the balance of the standby trust fund and the obligation of the provider of financial assurance, then the first priority for payment shall be corrective action costs necessary to protect human health and the environment. The director shall pay third-party liability claims in the order in which the director receives certifications under subsection (b)(2)(i) of this section and valid court orders under subsection (b)(2)(ii) of this section.

(d) A governmental entity acting as guarantor under section 280.106(e), the local government guarantee without standby trust, shall make payments as directed by the director under the circumstances described in section 280.112(a), (b), and (c).

History: 1998 MR 12, Eff. Dec. 30, 1998.

R 29.2170 Release from requirements.

Rule 70. Section 280.113 is amended as to read as follows:

Section 280.113. An owner or operator need not maintain financial responsibility under this subpart for an underground storage tank after the tank has been properly closed or, if corrective action is required, after corrective action has been completed and the tank has been properly closed as required by 40 C.F.R. part 280, subpart G.

Annual Administrative Code Supplement
1998 – 2000 Edition

History: 1998 MR 12, Eff. Dec. 30, 1998.

R 29.2171 Bankruptcy or other incapacity of owner or operator or provider of financial assurance.

Rule 71. Section 280.114 is amended to read as follows:

Section 280.114 (a) Within 10 days after commencement of a voluntary or involuntary proceeding under title 11 (bankruptcy) of the United States Code naming an owner or operator as debtor, the owner or operator shall notify the director of the implementing agency, by certified mail, of the commencement of a proceeding and submit the appropriate forms listed in section 280.111(b) documenting current financial responsibility.

(b) Within 10 days after commencement of a voluntary or involuntary proceeding under title 11 (bankruptcy) of the United States Code naming a guarantor providing financial assurance as debtor, the guarantor shall notify the owner or operator, by certified mail, of the commencement of a proceeding as required under the terms of the guarantee specified in section 280.96.

(c) Within 10 days after commencement of a voluntary or involuntary proceeding under title 11 (bankruptcy), of the United States Code naming a local government owner or operator as debtor, the local government owner or operator shall notify the director of the implementing agency, by certified mail, of the commencement of a proceeding and submit the appropriate forms listed in section 280.111(b) documenting current financial responsibility.

(d) Within 10 days after commencement of a voluntary or involuntary proceeding under title 11 (bankruptcy), of the United States Code naming a guarantor providing a local government financial assurance as debtor, the guarantor shall notify the local government owner or operator, by certified mail, of the commencement of a proceeding as required under the terms of the guarantee specified in section 280.106.

(e) An owner or operator who obtains financial assurance by a mechanism other than the financial test of self-insurance will be deemed to be without the required financial assurance in the event of a bankruptcy or the incapacity of its provider of financial assurance or a suspension or revocation of the authority of the provider of financial assurance to issue a guarantee, insurance policy, risk retention group coverage policy, surety bond, letter of credit, or state-required mechanism. The owner or operator shall obtain alternate financial assurance as specified in this subpart within 30 days after receiving notice of an event specified in this subsection. If the owner or operator does not obtain alternate coverage within 30 days after notification, the owner or operator shall notify the director of the implementing agency.

(f) Within 30 days after receipt of notification that a state fund or other state assurance has become incapable of paying for assured corrective action or third-party compensation costs, the owner or operator shall obtain alternate financial assurance.

History: 1998 MR 12, Eff. Dec. 30, 1998.

R 29.2172 Replenishment of guarantees, letters of credit, or surety bonds.

Rule 72. Section 280.115 is amended to read as follows:

Section 280.115. (a) If at any time after a standby trust is funded, on the instruction of the director of the implementing agency, with funds drawn from a guarantee, local government guarantee with standby trust, letter of credit, or surety bond, and if the amount in the standby trust is reduced below the full amount of coverage required, then the owner or operator shall, by the anniversary date of the financial mechanism from which the funds were drawn, do either of the following:

(1) Replenish the value of financial assurance to equal the full amount of coverage required.

(2) Acquire another financial assurance mechanism for the amount by which funds in the standby trust have been reduced.

(b) For purposes of this section, the full amount of coverage required is the amount of coverage to be provided by section 280.93 of this subpart. If a combination of mechanisms was used to provide the assurance funds that were drawn upon, then replenishment shall occur by the earliest anniversary date among the mechanisms.

History: 1998 MR 12, Eff. Dec. 30, 1998.

R 29.2173 Suspension of enforcement.

Annual Administrative Code Supplement
1998 – 2000 Edition

Rule 73. Section 280.116 is deleted.
Section 280.116. Deleted.
History: 1998 MR 12, Eff. Dec. 30, 1998.

R 29.2174 Adoption of standards by reference.

Rule 74. The following standards are adopted in these rules by reference and are available as at the address and cost specified:

(a) Recommended practice 1631 entitled "Interior Lining of Underground Storage Tanks" of the American Petroleum Institute, 1220 L. Street, North, Washington, DC 20005, at a cost as of the time of adoption of these rules of \$30.00.

(b) NLP standard 631 entitled "Entry, Cleaning, Internal Inspection, Repair and Lining of Underground Storage Tanks" of the National Leak Prevention Association, 7685 Fields Ertel Road, Cincinnati, OH 45241, at a cost as of the time of adoption of these rules of \$35.00.

(c) ASNT recommended practice no. SNT-TC-1A entitled "Personnel Qualification in Nondestructive Testing" of the American Society for Nondestructive Testing, 1711 Arlington Lane, P.O. Box 28518, Columbus, OH 43228-0518, at a cost as of the time of adoption of these rules of \$41.60.

(d) Standard practice SP 5 entitled "White Metal Blast Cleaning" of the Steel Structures Painting Council, 4400 Fifth Avenue, Pittsburgh, PA 15213-2683, at a cost as of the time of adoption of these rules of \$60.00.

(e) NACE recommended practice RP-02-85-94 entitled "Corrosion Control of Underground Storage Tank Systems by Cathodic Protection" of the National Association of Corrosion Engineers (NACE) International, P.O. Box 218340, Houston, TX, 77218, at a cost as of the time of the adoption of these rules of \$20.00.

(f) SW-846 entitled "Test Methods for Evaluating Solid Waste Physical/Chemical Methods" of the United States Environmental Protection Association, 5403 W. Street, Washington, DC 20460 at a cost as of the time of adoption of these rules of \$239.00.

The standards adopted in this rule may also be purchased from Department of Environmental Quality, Town Center, 333 South Capitol Ave., Second Floor, P.O. Box 30157, Lansing, Michigan 48909-7657, at a cost as of the time of adoption of these rules \$30.00, \$35.00, \$41.60, \$60.00, \$20.00, or \$239.00, respectively.

History: 1998 MR 12, Eff. Dec. 30, 1998

DEPARTMENT OF STATE POLICE

STATE FIRE SAFETY BOARD

TRANSPORTATION OF FLAMMABLE AND COMBUSTIBLE LIQUIDS

R 29.2201

Source: 1983 AACS.

R 29.2203

Source: 1983 AACS.

R 29.2205

Source: 1983 AACS.

R 29.2221

Source: 1983 AACS.

R 29.2222

Source: 1983 AACS.

R 29.2224

Source: 1983 AACS.

R 29.2226

Source: 1983 AACS.

Annual Administrative Code Supplement
1998 – 2000 Edition

R 29.2228

Source: 1983 AACS.

R 29.2230

Source: 1983 AACS.

R 29.2232

Source: 1983 AACS.

R 29.2234

Source: 1986 AACS.

STORAGE OF FLAMMABLE AND COMBUSTIBLE LIQUIDS

R 29.2301—R 29.2430

Source: 1997 AACS.

FIRE PREVENTION

PART 1. GENERAL PROVISIONS

R 29.2501 - 29.2733 Rescinded.

History: 1984 MR 6, Eff. July 4, 1984; rescinded 1999 MR 12, Eff. Dec. 21, 1999.

FIRE ALARM AND FIRE SUPPRESSION CERTIFICATION

R 29.2801

Source: 1983 AACS.

R 29.2802

Source: 1983 AACS.

R 29.2803

Source: 1983 AACS.

R 29.2804

Source: 1983 AACS.

R 29.2805

Source: 1983 AACS.

R 29.2806

Source: 1983 AACS.

R 29.2807

Source: 1983 AACS.

R 29.2808

Source: 1983 AACS.

R 29.2809

Annual Administrative Code Supplement
1998 – 2000 Edition

Source: 1983 AACS.

R 29.2810

Source: 1983 AACS.

R 29.2811

Source: 1983 AACS.

R 29.2812

Source: 1983 AACS.

R 29.2813

Source: 1983 AACS.

R 29.2814

Source: 1983 AACS.

ORGANIZATION, OPERATION, AND PROCEDURE

PART 1. GENERAL PROVISIONS

R 29.3101

Source: 1981 AACS.

R 29.3103

Source: 1981 AACS.

PART 2. ORGANIZATION AND OPERATION

R 29.3201

Source: 1981 AACS.

R 29.3203

Source: 1981 AACS.

PART 3. PROCEDURES

R 29.3301

Source: 1981 AACS.

R 29.3303

Source: 1981 AACS.

R 29.3305

Source: 1981 AACS.

R 29.3307

Source: 1981 AACS.

R 29.3309

Source: 1981 AACS.

R 29.3311

Source: 1981 AACS.

R 29.3313

Annual Administrative Code Supplement
1998 – 2000 Edition

Source: 1981 AACS.

R 29.3315

Source: 1981 AACS.

R 29.3317

Source: 1981 AACS.

PART 4. PUBLIC INSPECTION

R 29.3401

Source: 1981 AACS.

PART 5. APPENDICES

R 29.3501

Source: 1981 AACS.

LIQUEFIED PETROLEUM GASES

R 29.3801

Source: 1984 AACS.

R 29.3819

Source: 1984 AACS.

**AMENDMENTS TO STANDARD FOR THE STORAGE AND HANDLING
OF LIQUEFIED PETROLEUM GASES**

R 29.3821

Source: 1984 AACS.

R 29.3824

Source: 1984 AACS.

R 29.3826

Source: 1984 AACS.

R 29.3828

Source: 1984 AACS.

R 29.3830

Source: 1984 AACS.

R 29.3832

Source: 1984 AACS.

R 29.3834

Source: 1984 AACS.

R 29.3836

Source: 1984 AACS.

R 29.3838

Source: 1984 AACS.

R 29.3840

Annual Administrative Code Supplement
1998 – 2000 Edition

Source: 1984 AACS.

R 29.3842

Source: 1984 AACS.

R 29.3844

Source: 1984 AACS.

R 29.3846

Source: 1984 AACS.

R 29.3848

Source: 1984 AACS.

R 29.3850

Source: 1984 AACS.

R 29.3852

Source: 1984 AACS.

R 29.3854

Source: 1984 AACS.

R 29.3856

Source: 1984 AACS.

R 29.3858

Source: 1984 AACS.

DEPARTMENT OF ENVIRONMENTAL QUALITY

STORAGE TANK DIVISION

STORAGE AND HANDLING OF LIQUEFIED PETROLEUM GASES

PART 1. GENERAL PROVISIONS

R 29.4001 Applicability.

Rule 1. These rules apply to the operation of all liquefied petroleum gas systems. A person shall comply with these rules, other applicable state and federal statutes, and rules and regulations promulgated under the statutes.

History: 2000 MR 10, Eff. Jul. 27, 2000.

R 29.4002 Storage and handling of liquefied petroleum gases; adoption of standard by reference.

Rule 2. The national fire protection association's publication entitled "NFPA 58 LP-Gas Code 1998 Edition," referred to in these rules as the "code," pertaining to the storage and handling, but not transportation, of liquefied petroleum gas, is adopted by reference as part of these rules. Copies of the adopted code are available for inspection and distribution either at the office of the Department of Environmental Quality, Storage Tank Division, P.O. Box 30157, Lansing, Michigan 48909-7657, or from The National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269, telephone number 1-800-344-3555. The cost at the time of adoption of these rules is \$29.25, plus a \$4.85 handling charge, per copy.

History: 2000 MR 10, Eff. Jul. 27, 2000.

R 29.4003 Rescission.

Annual Administrative Code Supplement
1998 – 2000 Edition

Rule 3. R 29.3801 and R 29.3819 to R 29.3856 of the Michigan Administrative Code, appearing on pages 33 to 39 of the 1984 Annual Supplement to the 1979 Michigan Administrative Code, pertaining to the storage and handling, but not transportation, of liquefied petroleum gas, are rescinded.
History: 2000 MR 10, Eff. Jul. 27, 2000.

PART 2. AMENDMENTS TO ADOPTED CODE

R 29.4021 Notification of installation.

Rule 21. Section 1-4.1 of the code is amended, and sections **1-4.1.1, 1-4.1.2, 1-4.1.3, 1-4.1.4, 1-4.1.5, 1-4.3, and 1-4.3.1** are added as follows:

1-4.1. An applicant shall submit an installation application to the department before beginning construction of any new installation, or additional storage capacity to an existing installation, involving any of the following:

- (a) Installations where individual storage capacity exceeds 2,000 gallons water capacity.
- (b) Installations where the aggregate storage capacity exceeds 4,000 gallons water capacity.
- (c) A liquefied petroleum gas container filling location.

1-4.1.1. The installation application required by section 1-4.1 of the code shall include all of the following information:

- (a) A plot map showing all of the following:
 - (i) The location of all of the following:
 - (A) Buildings.
 - (B) Public roadways.
 - (C) Railroad mainlines.
 - (D) Public sidewalks.
 - (E) Overhead electric power lines.
 - (ii) The proposed location of the container.
 - (iii) The location of adjacent and existing containers.
 - (iv) The location of existing flammable and combustible aboveground tanks.
 - (v) The location of the point of transfer in relation to all of the following:
 - (A) The container.
 - (B) Buildings.
 - (C) Public ways.
 - (D) Outdoor places of public assembly.
 - (E) Driveways.
 - (F) Mainlines railroad track center lines.
 - (G) Flammable and class II combustible liquid dispensers.
 - (H) Aboveground and underground tanks.
 - (I) The lines of adjoining property that are or may be built upon.
 - (b) The material of construction.
 - (c) The dimension and capacity of each container.
 - (d) Container appurtenances.
 - (e) A piping diagram showing all of the following:
 - (i) Sizes.
 - (ii) Valves.
 - (iii) Pressure relief devices.
 - (iv) Fittings.
 - (f) The manufacturer and part number of all components on the liquefied petroleum gas system.
- The department may accept materials and equipment if it is demonstrated to the department's satisfaction that the proposed material or equipment is of an equivalent rating or higher.

1-4.1.2. Upon acknowledged receipt of the installation application the department shall issue a plan review

Annual Administrative Code Supplement
1998 - 2000 Edition

report within 21 days. If a plan review report is not issued within 21 days, then an applicant may construct the installation according to the submitted installation application and shall comply with these rules.

1-4.1.3. An applicant shall notify the department upon completion of the installation before the installation is placed into service. The department shall inspect the installation after receiving notification and shall certify the installation if the requirements of these rules are met. If the inspection is not made within 2 working days, then the applicant may place the installation into service, or if intended to be underground, mounded, or partially underground, may cover the installation from sight. In either case, an applicant shall notify the department and shall submit a notarized affidavit to the department attesting to the fact that the installation complies with the installation application submitted and the applicable rules.

1-4.1.4. Upon request, the department shall return all installation applications submitted to the department for review after the department has certified the installation or within 30 days from notification of the completion of the installation.

1-4.1.5. If the construction of the storage system is not commenced within 1 year after the date of the installation application approval, then an applicant shall resubmit an installation application in accordance with this section. An applicant shall submit the fees required under the act with the resubmitted application. This subsection shall also apply to installation applications that were submitted before the effective date of these rules.

1-4.3. Owners and operators shall register any underground, mounded, or partially underground liquefied petroleum gas storage location having a container that has an individual water capacity of more than 2,000 gallons, where 2 or more containers having an aggregate water capacity of more than 4,000 gallons, or which is a container filling location. Registration shall be on a form provided by the department, and shall be submitted to the department within one year from the effective date of these rules.

1-4.3.1. A propane gas supplier shall maintain records of the locations where underground, mounded, or partially underground liquefied petroleum gas storage containers other than containers specified in section 1-4.3. of the code were filled.

History: 2000 MR 10, Eff. Jul. 27, 2000.

R 29.4022 Qualification of personnel.

Rule 22. Section 1-5 of the code is amended, and sections 1-5.1 and 1-5.2 are added to the code as follows:

1-5. Qualification of personnel.

1-5.1. Not later than 2 years after the effective date of these rules or not later than 1 year after the date of employment, a person who transfers liquefied petroleum gas, or whose primary duties fall within the scope of the code, shall complete a training program and then receive certification from the national propane gas association's employee training certification program that includes handling, operating, and certified testing of liquefied petroleum gas, as adopted in section 12-1.13 of the code. The employer shall document that the person has received certified testing training. Only an individual who has received the certified testing training specified in this code is permitted to install or service liquefied petroleum gas systems and equipment.

Exception: A person transferring liquefied petroleum gas to a motor vehicle at a dispensing station or an attended self-serve facility is not required to comply with this section.

1-5.2. Within 1 year from the effective date of these rules, a person who transfers liquefied petroleum gas at a dispensing station shall receive training in accordance with the national propane gas association's dispenser operator's training manual. The employer shall document that the person has received training.

Annual Administrative Code Supplement
1998 – 2000 Edition

Exception: A person who transfers liquefied petroleum gas at an attended self-serve facility is not required to comply with this section. However, an attendant on duty at the facility shall receive certification in compliance with this section.

History: 2000 MR 10, Eff. Jul. 27, 2000.

R 29.4023 Definitions; "glossary of terms"; abbreviations.

Rule 23. Section 1-6 of the code is amended by amending the definitions of "approved," "authority having jurisdiction," and "container filling location" and by adding the definition of "department" as follows:

1-6. "Approved" means acceptable to the department unless specifically indicated otherwise in these rules.

"Authority having jurisdiction" means the department under 1941 PA 207, MCL 29.1 et seq., and executive orders 1997 and 1998 cited as Executive Reorganization Order Nos. 1997-2 and 1998-2, MCL 29.451 and MCL 29.461.

"Cathodic protection tester" means a person who can demonstrate an understanding of the principles and measurements of all common types of cathodic protection systems as applied to buried or submerged metal piping and container assemblies and who has education and experience in soil resistivity, stray current, structure-to-soil potential, and component electrical isolation measurements of buried metal piping and container assemblies. The person shall be certified by the national association of corrosion engineers international, steel tank institute, or any other organization that is acceptable to the department.

"Container filling location" means the location where liquefied petroleum gas is transferred from a fixed stationary container into cylinders or containers.

"Container system" means container assembly and piping system.

"Corrosion expert" means a person who, by reason of thorough knowledge of the physical sciences and the principles of engineering and mathematics acquired by a professional education and related to practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and container assemblies. The person shall possess certification as being qualified by the national association of corrosion engineers international as a senior corrosion technologist, a cathodic protection specialist, or a corrosion specialist; or be a registered professional engineer who possesses certification or licensing that includes education and experience in corrosion control of buried or submerged metal piping systems and metal container assemblies.

"Department" means the department of environmental quality.

History: 2000 MR 10, Eff. Jul. 27, 2000.

R 29.4024 Prohibitions.

Rule 24. Sections **1-7, 1-7.1, 1-7.2, 1-7.3, and 1-7.4** are added to the code as follows:

1-7. Prohibitions.

1-7.1. An LP-gas system or handling practice that is not in compliance with these rules is in violation of these rules.

1-7.2. A person shall not deliver liquefied petroleum gas into any container or use a liquefied petroleum gas container if the container is not in compliance with these rules.

1-7.3. Upon notification by the department, a person shall not deliver liquefied petroleum gas into any container, or use a liquefied petroleum gas container, if the container is not in compliance with these rules. The notification may be a verbal or written communication or an affixed written notification on the liquefied petroleum gas system.

Annual Administrative Code Supplement
1998 – 2000 Edition

A person shall not tamper with, remove, or disregard written notification affixed to the liquefied petroleum gas container.

History: 2000 MR 10, Eff. Jul. 27, 2000.

R 29.4025 Container marking.

Rule 25. Section **2-2.6.4** of the code is amended to read as follows:

2-2.6.4. Effective 1 year after the effective date of these rules, owners and operators shall place a warning label on all cylinders not filled at the site having a liquefied petroleum gas capacity of 100 pounds (45.4 kg) or less. The label shall include information on the potential hazards of liquefied petroleum gas.

History: 2000 MR 10, Eff. Jul. 27, 2000.

R 29.4026 Location of containers.

Rule 26. Section **3-2.2.9** of the code is amended as follows:

3-2.2.9. Persons shall not install structures such as fire walls, fences, earth or concrete barriers, and other similar structures closer than 10 feet (3.1 m) adjacent to, or over, nonrefrigerated containers. All structures installed around containers and container filling locations shall have not less than 6 inches (15.2 cm) of unobstructed clearance from the surface grade or floor to the bottom of the structure. Persons may install structural supports less than 6 inches (15.2 cm) above grade or floor which are designed to maintain adequate ventilation in accordance with section 7-2.2. Means of egress shall meet the requirements in section 3-3.6 of the code.

Exception no. 1: The department shall allow the use of structures that partially enclose containers if the structures are designed in accordance with a sound fire protection analysis. (see section 3-10.2.3 of the code)

Exception no. 2: The department shall allow the use of structures used to prevent flammable or combustible liquid accumulation or flow in accordance with section 3-2.2.7(c) of the code.

Exception no. 3: The department shall allow the use of structures between liquefied petroleum gas containers and gaseous hydrogen containers in accordance with section 3-2.2.7(f) of the code.

Exception no. 4: The department shall allow the use of fences in accordance with section 3-3.6 of the code.

History: 2000 MR 10, Eff. Jul. 27, 2000.

R 29.4027 Installation of containers.

Section **3-2.3.1(c)** of the code is deleted.

Rule 27. Table **3-2.3.3** was amended by adding Part L, section **3-2.4.1** is amended, and subsection **3-2.4.1(g)** is added, section **3-2.4.8** was amended by adding subsection **3-2.4.8(h)** and section **3-2.4.8.1** is added to the code, as follows:

Table 3-2.3.3 Part L – The minimal horizontal distance between the point of transfer and utility system opening shall be not less than 15 feet.

3-2.4.1(c) If physical damage from vehicles is a possibility to liquefied petroleum gas containers, or systems of which they are a part, including bulkheads, then owners and operators shall take the following precautions:

(1) An owner and operator shall install crash posts consisting of concrete-filled, schedule 40 steel pipe that is not less than 4 inches (10.2 cm) in diameter. Owners and operators shall install the posts not less than 3 feet (1 m) below grade, 4 feet (1.2 m) above grade, and a maximum of 5 feet (1.5 m), on center, between posts.

Annual Administrative Code Supplement
1998 – 2000 Edition

Owners and operators shall install each post in a concrete base foundation that is not less than 10 inches (25.4 cm) in diameter, and not less than 40 inches (101.6 cm) below grade.

An owner or operator may use a means of protection equivalent to the protection specified in section 3-2.4.1(c)(1) of the code if approved by the department.

3-2.4.1(g) If a permanently installed container is in an area that is subject to buoyant forces, provision shall be made to prevent the container, either full or empty, from floating during a rise in water level, including up to the established maximum flood stage.

3-2.4.8(h) Buried LPG containers no longer in use for more than 12 months shall be removed from the ground. If building structures exist above or in close proximity to the container such that removal would jeopardize the building structure integrity, then the owner or operator may close the container in place. To close the container in place, the container shall be emptied, cleaned, purged of all vapors and filled with an inert solid material. Piping permanently removed from service shall be purged and capped, or removed from the ground.

3-2.4.8.1. An owner and operator shall ensure that container systems are properly designed and constructed in accordance with American society of mechanical engineers and that any portion which is underground, mounded, or partially underground is protected from corrosion as follows:

(1) The American society of mechanical engineers approved container system is cathodically protected in the following manner:

(i) The American society of mechanical engineers approved container system is coated with a suitable dielectric material.

(ii) Factory-installed or field-installed cathodic protection systems are designed by a corrosion expert or in accordance with the national association of corrosion engineers recommended practice RP-02-85-95 entitled "Corrosion Control of Underground Storage Tank Systems by Cathodic Protection," or equivalent protection.

(iii) Impressed current systems are designed to allow a determination of current operating status as required in section 3-2.14 of the code.

(iv) Cathodic protection systems are operated and maintained in accordance with the provisions of section 3-2.14 of the code or according to procedures acceptable to the department.

(2) The Container is made of nonmetallic construction, such as fiberglass or a composite (steel with fiberglass).

History: 2000 MR 10, Eff. Jul. 27, 2000.

R 29.4028 Installation of pipe, tubing, pipe and tubing fittings, valves, and hose.

Rule 28. Section **3-2.5** of the code is deleted; Sections **3-2.10.11(e)** and **(g)** of the code are amended as follows:

3-2.10.11(e) Owners and operators may satisfy the requirements of section 3-2.10.11(b) and (c) of the code by using concrete or steel bulkheads or an equivalent anchorage installed at a minimum of 10 feet (3.1 m) from each storage container. Owners and operators shall ensure that fixed piping is used between the bulkhead and each storage container, and that the piping is attached to, and passes through, the bulkhead.

3-2.10.11(g) All new installations shall have at least 1 clearly identified and easily accessible manually operated remote emergency shutoff device. Within 1 year after the effective date of these rules, existing installations shall have at least 1 clearly identified and easily accessible manually operated remote emergency shutoff device. The device shall be located not less than 20 feet (6.1 m) nor more than 100 feet (30.5m) in the path of egress from the emergency shutoff valve.

History: 2000 MR 10, Eff. Jul. 27, 2000.

R 29.4029 Corrosion Protection

Annual Administrative Code Supplement
1998 – 2000 Edition

Rule 29. Section **3-2.14.** of the code is amended to read as follows:

3-2.14. Owners and operators shall ensure that all metallic container systems that are underground, mounded, or partially underground are protected and maintained to minimize corrosion as cited in the national association of corrosion engineers standard RP-01-69 (1996 revision) entitled “Recommended Practice, Control of External Corrosion of Underground or Submerged Metallic Piping Systems” and national association of corrosion engineers recommended practice RP 02085-95 entitled “Corrosion Control of Underground Storage Tank Systems by Cathodic Protection,” or equivalent protection approved by the department. The requirements of this rule do not apply to the copper piping attached to tanks used exclusively for residential heating systems.

(a) All corrosion protection systems shall be operated and maintained to continuously provide corrosion protection to the metal components of the portion of the American society of mechanical engineers approved container systems that routinely contains liquefied petroleum gas and that is in contact with the ground.

(b) All container systems equipped with cathodic protection systems shall be inspected for proper operation by a qualified cathodic protection tester. The system shall be tested within 6 months of installation and at least once every 3 years thereafter or according to another reasonable time frame established by the department.

(c) Container systems equipped with impressed current cathodic protection systems shall be inspected by the owner every 60 days to ensure that the equipment is running properly.

(d) If container systems are equipped with cathodic protection, then the owner or operator shall maintain records to demonstrate that the cathodic protection is in compliance with the performance standards in this section. The records shall provide both of the following:

(1) The results of the last 3 inspections required in subsection (c) of this section.

(2) The results of testing from the last 2 inspections required in subsection (b) of this section.

(e) Within 6 months following the repair of any cathodically protected container system, the cathodic protection system shall be tested in accordance with subsections (b) and (c) of this section to ensure that it is operating properly.

History: 2000 MR 10, Eff. Jul. 27, 2000.

R 29.4030

Rule 30. Section **3-3.6** of the code is amended as follows:

3-3.6. Protection against tampering.

(a) Enclosures shall be surrounded by not less than a 6-foot (1.8 m) high metallic, chain link, industrial-type fence, unless otherwise adequately protected. There shall be not less than 2 means of egress from the fenced or otherwise enclosed area with egress located at opposite sides of the enclosure. Clearance of not less than 3 feet (1.0 m) shall be provided to allow maintenance and emergency egress. If guard service is provided, it shall be extended to the liquefied petroleum gas installation. Guard personnel shall be properly trained as required in section 1-5 of the code.

Exception: Two means of egress are not required if the fence is not less than 50 feet from any side of the tank and piping.

History: 2000 MR 10, Eff. Jul. 27, 2000.

R 29.4031 Vehicle fuel dispenser and dispensing stations.

Rule 31. Section **3-9.3.2** of the code is amended and section **3-9.3.10** of the code is deleted.

3-9.3.2. A liquefied petroleum gas installation shall not be within a building, but shall be permitted under a weather shelter or canopy, constructed of non-combustible material properly ventilated in accordance with this code and not more than 50 percent of the perimeter enclosed. A stationary storage container shall not be located under the weather shelter or canopy except where the distance between the top of the storage

Annual Administrative Code Supplement
1998 – 2000 Edition

container and the lowest part of the weather shelter or canopy is not less than 8 feet (2.4 m). The top of any required vent stack shall terminate above the weather shelter or canopy.

History: 2000 MR 10, Eff. Jul. 27, 2000.

R 29.4032 Transfer personnel.

Rule 32. Sections **4-2.1.1** and **4-2.2.1** of the code are amended and sections **4-2.1.3**, **4-2.1.4**, and **4-2.2.3.1** are added to the code, as follows:

4-2.1.1. Qualified personnel who meet the provisions of section 1-5 of the code shall conduct transfer operations. At least 1 qualified person shall be in attendance, not inside a vehicle, and within 25 feet (7.6 m) of the transfer operation from the time connections are made until the transfer is completed, shutoff valves are closed, and lines are disconnected.

Exception: A person who is engaged in engine motor fueling or marine container filling, at locations open to the public, is not required to comply with this section.

4-2.1.3. Each engine motor fueling or marine container filling location open to the public shall have an attendant on duty who meets the requirements of section 1-5 of the code. (See "Exception" of section 4-2.1.1 of the code)

4-2.1.4. A container filling location that is not open to the public does not require an attendant or supervisor. Such private locations may include a card or key-controlled dispensing device. The person performing the transfer shall be capable of performing the functions and shall assume the responsibility as prescribed in section 1-5 of the code and in accordance with section 4-4.3 of the code. A qualified person shall post operating instructions for performing the transfer on a legible sign in the immediate vicinity of the point of transfer.

4-2.2.1. The transfer of liquefied petroleum gas out of or into a stationary container shall only be accomplished with authorization from the stationary container owner, and the transfer shall only be conducted by qualified persons trained in proper handling and operating procedures in accordance with the provisions of section 1-5 of these rules. The person conducting the transfer of liquefied petroleum gas shall also notify the owner of the container 2 working days before to the transfer.

4-2.2.3.1. Owners and operators shall post the following legible wording, with letters not less than 3 inches in height and in plain view at a container filling location, not later than 12 months after the effective date of these rules:

No smoking - no open flame

Warning: Filling the following types of cylinders is prohibited and violators are subject to civil and criminal penalties:

1. Cylinders not approved for liquefied petroleum gas.
2. Cylinders more than 12 years old that have not been properly recertified.
3. Cylinders which are damaged or burned or which, after visual inspection, appear unsafe.
4. Cylinders that are not equipped with a collar or cap to protect the valves while in transit.

History: 2000 MR 10, Eff. Jul. 27, 2000.

R 29.4033 Storage outside of buildings.

Rule 33. Section **5-4.1** of the code is amended as follows:

5-4.1. Owners and operators shall ensure that containers stored outside of buildings that are designated for use, resale, or cylinder exchange be located not less than 5 feet (1.5 m) from any doorway or opening in a

Annual Administrative Code Supplement
1998 – 2000 Edition

building that is or may be accessible to the public and there are not less than 2 means of egress as defined by National Fire Protection Association 101 entitled "Life Safety Code" which is adopted by reference. For buildings, or in areas of buildings, that have only 1 means of egress, owners and operators shall ensure that the location of container storage is not less than 10 feet (3m) from a doorway or opening, nor less than 20 feet (6.1m) from any automotive service station fuel dispensers, and is in accordance with table 5-4.1 of the code with respect to all of the following:

- (a) The nearest important building or group of buildings.
- (b) The line of adjoining property that can be built upon.
- (c) Busy thoroughfares or sidewalks.
- (d) The line of adjoining property occupied by schools, churches, hospitals, athletic fields, or other points of public gathering.
- (e) A dispensing station.

Exception: The location of cylinders in the filling process is not considered to be in storage.

History: 2000 MR 10, Eff. Jul. 27, 2000.

R 29.4034 General purpose vehicle engines.

Rule 34. Section **8-2.1.1** is added to the code to read as follows:

8-2.1.1. General purpose vehicle engines fueled by liquefied petroleum gas. Vehicles complying with the federal motor vehicle safety standards covering the installation of liquefied petroleum gas fuel systems on vehicles and certified by the vehicle manufacturer as meeting the standards need not comply with chapter 8 of the codes except for section 8-2.10 of the code.

History: 2000 MR 10, Eff. Jul. 27, 2000.

R 29.4035 Referenced Publications.

Rule 35. Sections 12-1.12, 12-1.13 and 12-1.14 are added to the code to read as follows:

12-1.12.(1) National association of corrosion engineers recommended practice RP-01-69 (1996 revision.) entitled "Recommended Practice, Control of External Corrosion of Underground or Submerged Metallic Piping Systems," is adopted by reference in these rules. The standard is available from the National Association of Corrosion Engineers International, P.O. Box 218340, Houston, TX 77218, at a cost as of the time of adoption of these rules of \$30.00, or from the Department of Environmental Quality, Storage Tank Division, P.O. Box 30157, Lansing, Michigan 48909-7657, at a cost as of the time of adoption of these rules of \$30.00.

(2) National Association of Corrosion Engineers recommended practice RP-02-85-95 entitled "Corrosion Control of Underground Storage Tank Systems by Cathodic Protection" of the National Association of Corrosion Engineers International, is adopted by reference in these rules and is available as specified in subsection (1) of this section at a cost as of the time of adoption of these rules of \$26.00.

12-1.13. The following national propane gas association, certified employee training programs are adopted in these rules by reference and are available from the National Propane Gas Association, 1600 Eisenhower Lane, Suite 100, Lisle, IL, 60532, phone 630-515-0600, at a cost of the time of adoption of these rules of \$294.00:

- (a) Basic principles and practices, copyright 1999.
- (b) Propane delivery, copyright 1999.
- (c) Distribution systems operations, copyright 1998.
- (d) Plant operations, copyright 1999.
- (e) Transfer system operations, copyright 1998.
- (f) Appliance installation, copyright 1999.
- (g) Appliance service, copyright 1998.

Annual Administrative Code Supplement
1998 – 2000 Edition

12-1.14. National Fire Protection Association pamphlet 101 entitled "Life Safety Code" is adopted by reference in the rules. The code is available from the National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269, phone 1-800-344-3555, at a cost as of the time of adoption of these rules of \$48.50, or from the Department of Environmental Quality, Storage Tank Division, P.O. Box 30157, Lansing, Michigan 48909-7657, at a cost of the time of adoption of these rules of \$48.50.
History: 2000 MR 10, Eff. Jul. 27, 2000.

STORAGE AND HANDLING OF FLAMMABLE AND COMBUSTIBLE LIQUIDS

PART 1. GENERAL PROVISIONS

R 29.4101

Source: 1992 AACS.

R 29.4102

Source: 1992 AACS.

R 29.4103

Source: 1992 AACS.

R 29.4104

Source: 1992 AACS.

R 29.4105

Source: 1992 AACS.

R 29.4106

Source: 1992 AACS.

PART 2. AMENDMENTS TO FLAMMABLE AND COMBUSTIBLE LIQUIDS CODE

R 29.4201

Source: 1992 AACS.

R 29.4202

Source: 1992 AACS.

R 29.4203

Source: 1992 AACS.

R 29.4204

Source: 1992 AACS.

R 29.4205

Source: 1992 AACS.

R 29.4206

Source: 1992 AACS.

R 29.4207

Source: 1992 AACS.

Annual Administrative Code Supplement
1998 – 2000 Edition

R 29.4208
Source: 1992 AACS.

R 29.4209
Source: 1994 AACS.

R 29.4210
Source: 1992 AACS.

R 29.4211
Source: 1992 AACS.

R 29.4212
Source: 1992 AACS.

R 29.4213
Source: 1992 AACS.

R 29.4214
Source: 1992 AACS.

R 29.4215
Source: 1992 AACS.

R 29.4216
Source: 1992 AACS.

R 29.4217
Source: 1994 AACS.

R 29.4218
Source: 1992 AACS.

R 29.4219
Source: 1992 AACS.

R 29.4220
Source: 1992 AACS.

R 29.4221
Source: 1992 AACS.

R 29.4222
Source: 1992 AACS.

R 29.4223
Source: 1992 AACS.

R 29.4224
Source: 1992 AACS.

R 29.4225
Source: 1992 AACS.

R 29.4226
Source: 1992 AACS.

Annual Administrative Code Supplement
1998 – 2000 Edition

R 29.4227
Source: 1992 AACS.

R 29.4228
Source: 1992 AACS.

R 29.4229
Source: 1992 AACS.

R 29.4230
Source: 1992 AACS.

R 29.4231
Source: 1992 AACS.

R 29.4232
Source: 1992 AACS.

R 29.4233
Source: 1992 AACS.

R 29.4234
Source: 1992 AACS.

R 29.4235
Source: 1992 AACS.

R 29.4236
Source: 1992 AACS.

R 29.4237
Source: 1992 AACS.

R 29.4238
Source: 1992 AACS.

R 29.4239
Source: 1992 AACS.

R 29.4240
Source: 1992 AACS.

PART 3. AMENDMENTS TO AUTOMOTIVE AND MARINE SERVICE STATION CODE

R 29.4301
Source: 1994 AACS.

R 29.4302
Source: 1992 AACS.

R 29.4303
Source: 1994 AACS.

R 29.4304
Source: 1994 AACS.

R 29.4305
Source: 1992 AACS.

Annual Administrative Code Supplement
1998 – 2000 Edition

R 29.4306
Source: 1992 AACS.

R 29.4307
Source: 1992 AACS.

R 29.4308
Source: 1992 AACS.

R 29.4309
Source: 1992 AACS.

R 29.4310
Source: 1992 AACS.

R 29.4311
Source: 1992 AACS.

R 29.4312
Source: 1992 AACS.

R 29.4313
Source: 1992 AACS.

R 29.4314
Source: 1992 AACS.

R 29.4315
Source: 1994 AACS.

R 29.4316
Source: 1992 AACS.

R 29.4317
Source: 1992 AACS.

R 29.4318
Source: 1992 AACS.

R 29.4319
Source: 1992 AACS.

**PART 4. AMENDMENTS TO THE STANDARD FOR THE
INSTALLATION OF OIL-BURNING EQUIPMENT**

R 29.4401
Source: 1992 AACS.

R 29.4402
Source: 1992 AACS.

R 29.4403
Source: 1994 AACS.

R 29.4404
Source: 1992 AACS.

R 29.4405
Source: 1992 AACS.

Annual Administrative Code Supplement
1998 – 2000 Edition

R 29.4406

Source: 1992 AACS.

**PART 5. AMENDMENTS TO THE STANDARD FOR THE STORAGE OF FLAMMABLE AND
COMBUSTIBLE LIQUIDS ON FARMS AND ISOLATED CONSTRUCTION PROJECTS**

R 29.4501

Source: 1992 AACS.

R 29.4502

Source: 1992 AACS.

R 29.4503

Source: 1992 AACS.

R 29.4504

Source: 1992 AACS.

COMPRESSED NATURAL GAS (CNG) VEHICULAR FUEL SYSTEMS

PART 1. GENERAL PROVISIONS

R 29.4601

Source: 1995 AACS.

R 29.4602

Source: 1995 AACS.

**PART 2. AMENDMENTS TO THE STANDARD FOR COMPRESSED NATURAL GAS (CNG)
VEHICULAR FUEL SYSTEMS**

R 29.4621

Source: 1995 AACS.

R 29.4622

Source: 1995 AACS.

R 29.4623

Source: 1995 AACS.

R 29.4624

Source: 1995 AACS.

R 29.4625

Source: 1995 AACS.

R 29.4626

Source: 1995 AACS.

R 29.4627

Source: 1995 AACS.

R 29.4628

Source: 1995 AACS.

R 29.4629

Source: 1995 AACS.

Annual Administrative Code Supplement
1998 – 2000 Edition

R 29.4630
Source: 1995 AACS.

R 29.4631
Source: 1995 AACS.

R 29.4632
Source: 1995 AACS.

R 29.4633
Source: 1995 AACS.

R 29.4634
Source: 1995 AACS.

R 29.4635
Source: 1995 AACS.

R 29.4636
Source: 1995 AACS.

R 29.4637
Source: 1995 AACS.

R 29.4638
Source: 1995 AACS.

R 29.4639
Source: 1995 AACS.

R 29.4640
Source: 1995 AACS.

R 29.4641
Source: 1995 AACS.

R 29.4642
Source: 1995 AACS.

R 29.4643
Source: 1995 AACS.

R 29.4644
Source: 1995 AACS.

R 29.4645
Source: 1995 AACS.

R 29.4646
Source: 1995 AACS.

R 29.4647
Source: 1995 AACS.

R 29.4648
Source: 1995 AACS.

R 29.4649
Source: 1995 AACS.

**Annual Administrative Code Supplement
1998 – 2000 Edition**

R 29.4650

Source: 1995 AACS.

R 29.4651

Source: 1995 AACS.

R 29.4652

Source: 1995 AACS.

PRODUCTION, STORAGE, AND HANDLING OF LIQUEFIED NATURAL GAS

R 29.4671

Source: 1995 AACS.

R 29.4672

Source: 1995 AACS.

EMERGENCY SERVICES DIVISION

STATE ASSISTANCE TO LOCAL POLITICAL SUBDIVISIONS

R 30.1—R 30.19

Source: 1997 AACS.

EMERGENCY MANAGEMENT DIVISION

EMERGENCY MANAGEMENT TRAINING

R 30.31

Source: 1994 AACS.

R 30.32

Source: 1994 AACS.

R 30.33

Source: 1994 AACS.

R 30.34

Source: 1994 AACS.

STATE ASSISTANCE TO COUNTIES AND MUNICIPALITIES

R 30.51

Source: 1994 AACS.

R 30.52

Source: 1994 AACS.

R 30.53

Source: 1994 AACS.

R 30.54

Annual Administrative Code Supplement
1998 – 2000 Edition

Source: 1994 AACS.

R 30.55

Source: 1994 AACS.

R 30.56

Source: 1994 AACS.

R 30.57

Source: 1994 AACS.

R 30.58

Source: 1994 AACS.

R 30.59

Source: 1994 AACS.

R 30.60

Source: 1994 AACS.

R 30.61

Source: 1994 AACS.

DEPARTMENT OF MILITARY AFFAIRS
OFFICE OF THE DIRECTOR AND ADJUTANT GENERAL
INTERIM BOND PROCEDURES

R 32.101

Source: 1986 AACS.

R 32.102

Source: 1986 AACS.

R 32.103

Source: 1986 AACS.

R 32.104

Source: 1986 AACS.

R 32.105

Source: 1986 AACS.

R 32.106

Source: 1986 AACS.

R 32.107

Source: 1986 AACS.

ADMINISTRATION OF OATHS AND AFFIRMATIONS

R 32.151

Source: 1986 AACS.

**Annual Administrative Code Supplement
1998 – 2000 Edition**

MILITARY APPEALS TRIBUNAL PROCEDURES

- R 32.171**
Source: 1986 AACS.
- R 32.172**
Source: 1986 AACS.
- R 32.173**
Source: 1986 AACS.
- R 32.174**
Source: 1986 AACS.
- R 32.175**
Source: 1986 AACS.
- R 32.176**
Source: 1986 AACS.
- R 32.177**
Source: 1986 AACS.
- R 32.178**
Source: 1986 AACS.
- R 32.179**
Source: 1986 AACS.
- R 32.180**
Source: 1986 AACS.
- R 32.181**
Source: 1986 AACS.
- R 32.182**
Source: 1986 AACS.
- R 32.183**
Source: 1986 AACS.
- R 32.184**
Source: 1986 AACS.
- R 32.185**
Source: 1986 AACS.
- R 32.186**
Source: 1986 AACS.

**VETERANS' TRUST FUND BOARD OF TRUSTEES
STUDENT GRANTS**

- R 35.651**
Source: 1985 AACS.
- R 35.652**

Annual Administrative Code Supplement
1998 – 2000 Edition

Source: 1985 AACS.

R 35.652a

Source: 1985 AACS.

R 35.653

Source: 1985 AACS.

R 35.654

Source: 1985 AACS.

DEPARTMENT OF EDUCATION
STATE TENURE COMMISSION
GENERAL RULES

PART 1. GENERAL PROVISIONS

R 38.131

Source: 1987 AACS.

R 38.135 Request for declaratory ruling.

Rule 5. (1) An interested person may request that the commission issue a declaratory ruling on how a statute that is administered by the commission or a rule or order of the commission applies to an actual state of facts.

(2) A request for a declaratory ruling shall be submitted to the State Tenure Commission, Department of Education, P.O. Box 30008, 608 West Allegan, Lansing, Michigan 48909. A request shall contain all of the following information:

- (a) A clear and concise statement of the actual state of facts upon which a ruling will be based.
- (b) A precise statement of the legal question or issue involved.
- (c) A citation of the statute or administrative rule at issue.
- (d) The signature of the interested person making the request.

(3) An applicant who requests a declaratory ruling shall serve a copy of the request for a declaratory ruling upon any person known by the applicant to have an interest in the matter and upon any person referred to in the statement of facts when the request is filed with the commission. An applicant shall deliver a copy of the request personally or send a copy by certified mail, return receipt requested. An applicant shall file the proof of service together with the request to issue a declaratory ruling.

(4) Within 60 days after receiving a submitted request, the commission shall notify any person identified in subrule (3) of this rule as to whether the declaratory ruling will be issued or denied.

(5) If the request is denied, then the commission shall issue a concise written statement of the legal or factual reasons for denial.

(6) If a request is granted, then the commission shall notify all persons identified in subrule (3) of this rule that any interested person may submit a brief of the legal authority upon which the person believes the declaratory ruling should be based within a time to be established by the commission.

(7) If a declaratory ruling is issued, then the ruling shall include all of the following information:

- (a) The actual state of facts upon which the ruling is based.
- (b) The conclusion of law based on the legal authority that the commission relied on for its ruling.
- (c) The ruling or determination made.

(8) The commission shall make available a copy of a declaratory ruling, the grant of a request for a

Annual Administrative Code Supplement
1998 – 2000 Edition

declaratory ruling, or a denial of a request for a declaratory ruling upon request.
History: 1987 MR 1, Eff. Jan. 23, 1987; 2000 MR 1, Eff. Jan. 27, 2000.

R 38.139 Rescinded.

Rule 9. The rules of practice and procedure of the commission, being R 38.71 and R 38.101 to R 38.123 of the Michigan Administrative Code and appearing on pages 342 to 345 of the 1957 Annual Supplement to the Code, pages 3542 and 3543 of the 1966 Annual Supplement to the Code, and page 5354 of the 1970-71 Annual Supplements to the Code, are rescinded.

History: 1954 ACS 86, Eff. Feb. 4, 1976; 1979 AC; Rescinded 2000 MR 1, Eff. Jan. 27, 2000.

PART 2. APPEAL PROCEDURES

R 38.141 Representation; appearances.

Rule 11. (1) Practice before the commission is limited to attorneys at law in good standing in the State Bar of Michigan. However, a party may represent himself or herself.

(2) An attorney who represents litigants under the act, or a party representing himself or herself, shall file a written appearance on or before the time of the filing of the claim of appeal or the answer, whichever is applicable, at the office of the commission. Substitution of a withdrawing attorney shall be made upon written stipulation of the withdrawing attorney and the party represented, or at the discretion of the commission. The stipulation shall be filed immediately with the commission.

History: 1954 ACS 86, Eff. Feb. 4, 1976; 1979 AC; 2000 MR 1, Eff. Jan. 27, 2000.

R 38.142 Form and style of papers.

Rule 12. (1) Pleadings and other documents filed with the commission shall be legibly printed or typewritten and shall be on 1 side only of white bond paper not more than 8 ½ inches wide and 11 inches long. Pleadings and briefs shall be filed with the commission along with 6 copies signed by the attorney, appealing party, or controlling board member. The commission may waive filing of the extra copies. The proper caption and docket number shall be placed on all papers filed. The given name and surname of the party shall be set forth in the caption. (2) The signature of an attorney or party, whether or not the party is represented by an attorney, constitutes a certification by the signer of all of the following:

(a) He or she has read the pleading.

(b) To the best of his or her knowledge, information, and belief formed after reasonable inquiry, the pleading is well-grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law.

(c) The pleading is not interposed for any improper purpose, such as to harass or cause unnecessary delay or needless increase in the cost of the proceedings.

History: 1954 ACS 86, Eff. Feb. 4, 1976; 1979 AC; 2000 MR 1, Eff. Jan. 27, 2000.

R 38.143 Initiation of appeal.

Rule 13. To contest a controlling board's decision, an appellant shall file a claim of appeal with the commission not later than 20 days after receipt of the controlling board's decision and notice of tenure rights. An appellant shall file an original and 6 copies of a notice of claim of appeal and claim of appeal with the commission. The notice and claim shall be set forth in substantially the following forms:

(1) Notice of Claim of Appeal.

STATE OF MICHIGAN

STATE TENURE COMMISSION

(NAME OF APPELLANT - TEACHER)

Appellant,

v

Docket No.

(NAME OF APPELLEE - CONTROLLING BOARD)

Appellee.

NOTICE OF CLAIM OF APPEAL

Annual Administrative Code Supplement
1998 – 2000 Edition

TO THE ABOVE NAMED APPELLEE(S):
(BOARD OF EDUCATION)

You are hereby notified that a claim of appeal has been filed with the State Tenure Commission in the above matter.

You have ten (10) days after service of this notice to file an answer with the State Tenure Commission and serve a copy on the appellant or to take other lawful action.

(A copy of the Michigan Teachers' Tenure Act and rules of the State Tenure Commission governing the practice and procedure pertaining to proceedings before the State Tenure Commission may be obtained from the office of the Commission.)

Dated:

Signature of Appealing Party or Attorney (Complete name, street address, and mailing address if different, telephone number of the appealing party or attorney should be printed here.)

(2) Claim of Appeal.

STATE OF MICHIGAN
STATE TENURE COMMISSION
(NAME OF APPELLANT - TEACHER)

Appellant,

v

Docket No.

(NAME OF APPELLEE - CONTROLLING BOARD)

Appellee.

CLAIM OF APPEAL

, the above named Appellant, (by his or her attorney), hereby requests a hearing and appeals the decision of Appellee, and as a basis alleges as follows:

I
JURISDICTION

(Set forth the basis for the jurisdiction of the tenure commission, such as the date and school district in which the appellant last acquired tenure.)

II
FACTS

(A claim of appeal must contain a statement of the facts, without repetition, on which the appellant relies in claiming an appeal, with allegations specific enough to reasonably inform the adverse party of the nature of the cause the adverse party is called upon to defend. Each allegation must be made in numbered paragraphs which are clear, concise, and direct.)

III
ASSIGNMENTS OF ERROR

(State each assignment of error with sufficient specificity to inform reasonably the adverse party of the nature of the claim asserted. Each assignment shall be clear, concise, and direct and stated in a separate numbered paragraph.)

IV
RELIEF

(Set forth clearly and concisely those demands for relief to which appellant claims entitlement. Relief in the alternative may be demanded.)

V
ATTACHMENTS

Annual Administrative Code Supplement
1998 – 2000 Edition

(A copy of the appealed charges or written decision, if any, shall be attached to the claim of appeal.)

DATED:

Appealing party or attorney signature

History: 1954 ACS 86, Eff. Feb. 4, 1976; 1979 AC; 2000 MR 1, Eff. Jan. 27, 2000.

R 38.144 Filing and service of notice of appeal and claim of appeal.

Rule 14. An appeal is commenced by filing with the commission, a notice of claim of appeal, and a claim of appeal. The appellant shall serve a copy of the notice of the claim of appeal and the claim of appeal upon the controlling board by delivering the documents in person, by registered mail, return receipt requested, or by certified mail, return receipt requested.

History: 1954 ACS 86, Eff. Feb. 4, 1976; 1979 AC; 2000 MR 1, Eff. Jan. 27, 2000.

R 38.145 Filing.

Rule 15. (1) Pleadings or other papers under these rules shall be filed with the office of the commission and shall be received by the commission before the close of business on the last day of the time limit, if any, for the filing.

(2) The commission shall permit filing of pleadings and documents by use of facsimile (fax) communication equipment as follows:

(a) All fax filings shall be typewritten, excluding any required signatures, on 8 1/2" by 11" paper.

(b) The total number of pages of any faxed pleading or document shall not exceed 20 pages.

(c) Every fax filing shall include a cover sheet containing the following information:

(i) The case name.

(ii) The docket number.

(iii) The name and telephone number of the sender.

(iv) The number of pages being transmitted.

(d) Pleadings or documents filed by fax which are received after 5:00 p.m. will not be considered filed until the next business day.

(e) The faxing party shall mail 6 additional copies of the faxed document or pleading to the commission and shall serve the document or pleading as required by R 38.142, R 38.144 and R 38.146.

History: 1954 ACS 86, Eff. Feb. 4, 1976; 1979 AC; 2000 MR 1, Eff. Jan. 27, 2000.

R 38.146 Service.

Rule 16. Except for the original service of the notice of claim of appeal and the claim of appeal, service required or permitted to be made upon a party represented by an attorney shall be made as follows:

(a) Service upon the attorney shall be made by delivering or by mailing a copy to the attorney's last known business address. Service upon a party shall be made by delivering a copy or by mailing a copy to the party at the address stated in the pleadings.

(b) Mailing of a copy means enclosing it in a sealed envelope with first-class mail postage fully prepaid, addressed to the person to be served, and depositing the envelope and its contents in the United States government mail.

(c) Proof of service of papers required or permitted to be served may be evidenced by written acknowledgment of service, by affidavit of the person making service, or by other proof satisfactory to the commission.

History: 1954 ACS 86, Eff. Feb. 4, 1976; 1979 AC; 2000 MR 1, Eff. Jan. 27, 2000.

R 38.147 Answers.

Rule 17. After service of a copy of a notice of claim of appeal and the claim of appeal, appellee shall have 10 days within which to file and serve an answer. The answer shall contain a specific admission or denial of each material allegation of fact contained in the claim of appeal, a statement of facts upon which the appellee relies for his or her defense, and affirmative allegations to be relied on by appellee. Each paragraph

Annual Administrative Code Supplement
1998 – 2000 Edition

contained in the answer shall be numbered to correspond with the paragraphs in the claim of appeal. An original and 6 copies of the answer shall be filed with the commission and a copy shall be served upon all other parties.

History: 1954 ACS 86, Eff. Feb. 4, 1976; 1979 AC; 2000 MR 1, Eff. Jan. 27, 2000.

R 38.148 Amendments.

Rule 18. The administrative law judge may permit a party to amend a pleading before, during, or after the conclusion of the hearing upon such terms as may be deemed just and consistent with due process.

History: 1954 ACS 86, Eff. Feb. 4, 1976; 1979 AC; 2000 MR 1, Eff. Jan. 27, 2000.

R 38.149 Joinder of claims of appeal.

Rule 19. More than 1 appellant may join in a claim of appeal if a right to relief jointly, severally, or, in the alternative, in respect of or arising out of the same transaction, occurrence, or series of transactions or occurrences is asserted and if a question of law or fact is common to all appellants or it appears that the appellants' presence in the action will promote the convenient administration of justice. Misjoinder of appellants is not a ground for dismissal of the claim of appeal. Appellants may be added or dropped by order of the administrative law judge on motion of any party or on the initiative of the administrative law judge at any stage of the action and on such terms as are just.

History: 1954 ACS 86, Eff. Feb. 4, 1976; 1979 AC; 2000 MR 1, Eff. Jan. 27, 2000.

PART 3. MOTION PRACTICE

R 38.151 Form: time for filing.

Rule 21. (1) An application to the administrative law judge or the commission for an order in a pending action shall be by motion, in writing, unless made during a hearing. The applicant shall state, with particularity, the grounds and authority on which the application is based, state the relief or order sought, and be signed by the party or the party's attorney.

(2) A copy of the written motion, brief, request for hearing date, and notice to the opposing party that the rules of the commission require a response to the motion within 10 days after service of the motion shall be served upon the opposing party at the time an application is filed with the administrative law judge or the commission. If a motion or response is supported by affidavit, then the affidavit shall be filed and served with the motion or response.

(3) Motions and responses to motions shall be accompanied by a brief.

The brief shall contain a concise statement of supporting or opposing reasons and a citation of authorities upon which the parties rely.

(4) A respondent opposing a motion shall file a response, including a brief and supporting affidavits, if any, within 10 days after service of the motion unless otherwise ordered by the administrative law judge or the commission.

(5) The movant and respondent shall serve copies of their respective papers upon opposing parties before or concurrently with the filing with the administrative law judge or the commission and shall include proof of service.

(6) The administrative law judge or the commission may limit or dispense with oral arguments on motions.

(7) If an affidavit is filed in support of, or in opposition to, a motion, it shall be in compliance with all of the following provisions:

(a) Be made on personal knowledge.

(b) State, with particularity, facts admissible as evidence establishing or denying the grounds stated in the motion.

(c) Show affirmatively that the affiant, if sworn as a witness, can testify competently to the facts stated in

Annual Administrative Code Supplement
1998 – 2000 Edition

the affidavit.

(8) The time for a hearing on a motion shall be set by the administrative law judge. However, the hearing on a motion shall not cause a delay in the statutorily mandated date for the conclusion of the hearing, nor shall a motion cause a delay in the due dates of exceptions or cross-exceptions.

(9) If a motion is based on facts not appearing on the record, the administrative law judge may hear the motion on affidavits presented by the parties or may direct that the motion be heard wholly or partly on oral testimony or deposition.

(10) The administrative law judge may direct that a hearing on a motion be held at the commission offices in Lansing.

History: 1954 ACS 86, Eff. Feb. 4, 1976; 1979 AC; 2000 MR 1, Eff. Jan. 27, 2000.

R 38.152 Motion for more definite statement.

Rule 22. If a claim of appeal or answer is so vague or ambiguous that it fails to comply with these rules, then the opposing party may move for a more definite statement before filing responsive pleadings. The motion shall specify the claimed defects and the details desired. If an order granting the motion is not obeyed within 10 days of the order, or within such other time as the administrative law judge may set, then the administrative law judge may strike the pleading to which the motion was directed or enter an order the administrative law judge deems just.

History: 1954 ACS 86, Eff. Feb. 4, 1976; 1979 AC; 2000 MR 1, Eff. Jan. 27, 2000.

R 38.153 Motion to strike.

Rule 23. Upon motion made by a party or upon the administrative law judge's own initiative, the administrative law judge may order redundant, immaterial, impertinent, scandalous, or indecent matter stricken from pleadings. The administrative law judge may order evidence which is objected to and which would not be admitted by the administrative law judge stricken from pleadings.

History: 1954 ACS 86, Eff. Feb. 4, 1976; 1979 AC; 2000 MR 1, Eff. Jan. 27, 2000.

R 38.154 Rescinded.

History: 1954 ACS 86, Eff. Feb. 4, 1976; 1979 AC; Rescinded 2000 MR 1, Eff. Jan. 27, 2000.

R 38.155 Motion for summary disposition.

Rule 25. (1) A party seeking to recover upon a claim of appeal, or a party against whom a claim of appeal is asserted, may move for summary disposition on all or any part of the claim at any time. The motion shall state that the moving party is entitled to summary disposition on 1 or more of the following grounds and shall specify the grounds on which the motion is based:

(a) The appellant has failed to state a claim upon which relief can be granted.

(b) The controlling board has failed to state a valid defense to the claim asserted against it.

(c) There is no genuine issue as to a material fact, except as to the relief to be granted, and the moving party is therefore entitled to judgment as a matter of law.

(d) The commission lacks jurisdiction of the subject matter.

(e) The claim of appeal is barred because it is untimely.

(f) The claim of appeal is barred because of some other disability of the appellant or other disposition of the claim.

(2) Only the pleadings may be considered when the motion for summary disposition is based on subrule (1) (a) or (b) of this rule. A motion based upon subrule (1) (c) of this rule shall be supported by affidavits and shall specifically identify the issues as to which the moving party believes there is no genuine issue of material fact. The affidavits, together with the pleadings, depositions, admissions, and documentary evidence then filed in the action or submitted by the parties, shall be considered. If a motion is made under subrule (1) (c) of this rule and supported as provided in this rule, then an adverse party may not rest upon the mere allegation or denial of the pleading, but shall, by affidavits or as otherwise provided in this rule, set forth specific facts showing that there is a genuine issue for hearing. If the adverse party does not respond, then summary disposition, if appropriate, shall be entered. Summary disposition shall be entered if the pleadings show that a party is entitled to summary disposition as a matter of law or if the affidavits or other

Annual Administrative Code Supplement
1998 – 2000 Edition

proof shows that there is no genuine issue of fact. If it appears that the opposing party, rather than the moving party, is entitled to summary disposition, the administrative law judge may render summary disposition in the opposing party's favor without a motion.

(3) The administrative law judge may order an immediate hearing on disputed questions of fact and enter a summary disposition if the proofs show that the moving party is entitled to summary disposition or the administrative law judge may postpone the hearing until the merits are heard.

(4) If the grounds asserted for summary disposition are based on subrule (1)(a),(b), or (c) of this rule, then the administrative law judge shall give the parties an opportunity to amend their pleadings, unless the evidence before the administrative law judge shows that amendment would not be justified.

History: 1954 ACS 86, Eff. Feb. 4, 1976; 1979 AC; 2000 MR 1, Eff. Jan. 27, 2000.

R 38.156 Motion for adjournment or continuance.

Rule 26. An administrative law judge shall not grant a request for adjournment or continuance except on good cause. A request for adjournment or continuance may be made by written motion, by oral motion during a hearing, or by stipulation of the parties.

History: 1954 ACS 86, Eff. Feb. 4, 1976; 1979 AC; 2000 MR 1, Eff. Jan. 27, 2000.

R 38.157 Lack of progress or repeated failure to follow statute or rule.

Rule 27. After a party, the administrative law judge, or the commission gives a party notice of an alleged deficiency and an opportunity to respond or comply within 10 days, the administrative law judge or the commission may dismiss an appeal or deny a discharge or demotion for a party's lack of progress or for a party's repeated failure to comply with the procedures specified in section 4 of article 4 of the act or these rules. A party may move to set aside an order under this rule within 10 days of the issuance of the order. A motion to set aside an order shall be granted only if good cause is shown and an affidavit of facts showing a meritorious claim or defense is filed.

History: 1954 ACS 86, Eff. Feb. 4, 1976; 1979 AC; 2000 MR 1, Eff. Jan. 27, 2000.

R 38.158 Rescinded.

History: 1954 ACS 86, Eff. Feb. 4, 1976; 1979 AC; Rescinded 2000 MR 1, Eff. Jan. 27, 2000.

R 38.159 Rescinded.

History: 1954 ACS 86, Eff. Feb. 4, 1976; 1979 AC; Rescinded 2000 MR 1, Eff. Jan. 27, 2000.

PART 4. PREHEARING CONFERENCE

R 38.161 Scope of conference.

Rule 31. In every matter, the administrative law judge may direct the parties and their attorneys to participate in a prehearing conference, either in person or by telephone, to do the following:

- (a) State and simplify the factual and legal issues involved and consider the amendment of pleadings.
- (b) Consider motions to be disposed of before hearing, the consolidation of the case with another, admissions of fact and authenticity of documents to avoid unnecessary proofs, and limiting the number of witnesses and the nature and extent of the relief demanded.
- (c) Produce all proposed documentary evidence and admit its authenticity if possible.
- (d) Prepare a list of witnesses who may be called at the time of the hearing.
- (e) Estimate the time for hearing.
- (f) Discuss the possibility of settlement.
- (g) Consider all other matters that may aid in the disposition of the subject of disagreement.

History: 1954 ACS 86, Eff. Feb. 4, 1976; 1979 AC; 2000 MR 1, Eff. Jan. 27, 2000.

Annual Administrative Code Supplement
1998 – 2000 Edition

R 38.162 Prehearing summary.

Rule 32. The administrative law judge shall prepare and serve upon the parties a summary of the results of the conference specifically covering each of the items discussed within 5 days after the prehearing conference. The parties, within 5 days of service of the summary, may file objections to the summary.

History: 1954 ACS 86, Eff. Feb. 4, 1976; 1979 AC; 2000 MR 1, Eff. Jan. 27, 2000.

R 38.163 Hearing briefs.

Rule 33. At the time of the prehearing conference, the administrative law judge may direct the parties to file a hearing brief as to any of the issues involved in the action. If hearing briefs are required, parties shall submit the briefs to the administrative law judge not less than 10 days before the hearing, unless a different date is set by the administrative law judge, or unless the administrative law judge specifically waives the requirement.

History: 1954 ACS 86, Eff. Feb. 4, 1976; 1979 AC; 2000 MR 1, Eff. Jan. 27, 2000.

R 38.164 Rescinded.

History: 1954 ACS 86, Eff. Feb. 4, 1976; 1979 AC; Rescinded 2000 MR 1, Eff. Jan. 27, 2000.

R 38.165 Waiver of prehearing conference.

Rule 35. The provisions of these rules pertaining to the prehearing conference and prehearing summary may be waived by stipulation of counsel of all parties to the action subject to the approval of the administrative law judge.

History: 1954 ACS 86, Eff. Feb. 4, 1976; 1979 AC; 2000 MR 1, Eff. Jan. 27, 2000.

PART 5. HEARINGS

R 38.171 Notice of hearing.

Rule 41. An administrative law judge shall furnish to each party a notice of hearing establishing the date and place of the hearing. The hearing date shall not be less than 10 days after the date the notice of hearing is furnished and shall not be more than 60 days after service of the controlling board's answer, unless the administrative law judge grants a delay for good cause shown by the teacher or controlling board.

History: 1954 ACS 86, Eff. Feb. 4, 1976; 1979 AC; 2000 MR 1, Eff. Jan. 27, 2000.

R 38.172 Conduct of evidentiary hearing; representation; stipulations of fact; objections to hearing; rules of evidence; rules of privilege; official notice.

Rule 42. (1) A hearing for the purpose of taking evidence upon a claim of appeal shall be conducted by an administrative law judge.

(2) A party may appear at a hearing in person or by legal counsel and may call, examine, and cross-examine witnesses and introduce into the record documentary or other evidence.

(3) Stipulations of fact may be introduced in evidence at the hearing at the discretion of the administrative law judge.

(4) An objection to the conduct of the hearing, including an objection to the introduction of evidence, may be oral or written and accompanied by a short statement on the grounds for the objection.

(5) In a contested case, the rules of evidence as applied in a nonjury civil case in circuit court shall be followed as far as practicable, but the administrative law judge may admit and give probative effect to evidence of a type commonly relied upon by reasonably prudent people in the conduct of their affairs.

(6) Irrelevant, immaterial, or unduly repetitious evidence may be excluded.

(7) Effect shall be given to the rules of privilege recognized by law.

(8) Objections to offers of evidence may be made and shall be noted in the record.

(9) The administrative law judge may take official notice of judicially cognizable facts and may take notice of general, technical, or scientific facts within the commission's specialized knowledge.

History: 1954 ACS 86, Eff. Feb. 4, 1976; 1954 ACS 95, Eff. May 31, 1978; 1979 AC; 2000 MR 1, Eff. Jan. 27, 2000.

Annual Administrative Code Supplement
1998 – 2000 Edition

R 38.173 Subpoenas.

Rule 43. (1) The administrative law judge may subpoena witnesses and documentary or physical evidence on his or her own motion and shall subpoena witnesses and documentary or physical evidence at the request of the controlling board or the teacher. If a person refuses to appear and testify in answer to a subpoena issued by the administrative law judge, then the party on whose behalf the subpoena was issued may file a petition in the circuit court of the county in which the hearing is held for an order requiring compliance. Failure to obey an order of the court may be punished by the court as contempt. The administrative law judge may stay further proceedings until the subpoena is obeyed. Upon motion made at or before the time specified in the subpoena for compliance with the subpoena, the administrative law judge may quash or modify the subpoena if it is unreasonable or oppressive.

(2) A subpoena shall state the title of the matter and shall command each person to whom it is directed to attend and give testimony at a time and place specified in the subpoena. The administrative law judge shall sign and issue a subpoena, in blank, to a party requesting it. The requesting party shall fill in the subpoena before service.

(3) A subpoena shall be served in the manner prescribed by statute or the Michigan Court Rules, 1996/1997 edition, for subpoenas in civil actions. A subpoena may be served at any place within the state. Upon a showing to the administrative law judge that service of the subpoena cannot reasonably be made in person, the administrative law judge may allow service of a subpoena to be made upon a person in any other manner that is reasonably calculated to give the person actual notice of the subpoena.

(4) Witnesses subpoenaed before the commission shall be paid the same fees and mileage that are paid to witnesses in circuit courts. Witness fees and mileage shall be paid by the party at whose instance the witnesses appear, but may be recovered by the prevailing party as costs if the commission so directs.

History: 1954 ACS 86, Eff. Feb. 4, 1976; 1979 AC; 2000 MR 1, Eff. Jan. 27, 2000.

R 38.174 Discovery.

Rule 44. Discovery is permitted upon leave of the administrative law judge or on stipulation of all parties. A motion for discovery may not be filed unless the discovery sought has been requested previously and refused. All discovery shall be completed before the statutorily required commencement of the hearing unless the administrative law judge grants a delay pursuant to R 38.171.

History: 1954 ACS 86, Eff. Feb. 4, 1976; 1979 AC; 2000 MR 1, Eff. Jan. 27, 2000.

R 38.174a Physical and mental examination.

Rule 44a. (1) If the appellant places his or her mental or physical condition in controversy, then the administrative law judge may order the appellant to submit to a physical or mental examination by a physician or other appropriate professional. The order may be entered only on motion for good cause with notice to the appellant and to all parties. The order shall specify the time, place, manner, conditions, and scope of the examination and the person or persons by whom it is to be made. The order shall provide that the attorney for the appellant may be present at the examination.

(2) If requested by a party against whom an order is entered under subrule (1) of this rule, the party causing the examination to be made shall deliver to the requesting person a copy of a detailed written report of the examining physician setting out the findings, including the results of all tests made, diagnoses, and conclusions, together with reports on all tests and examinations pertaining to the same condition, and shall make available for inspection and examination x-rays, cardiograms, and other diagnostic aids.

(3) After delivery of the report specified in subrule (2) of this rule, the party causing the examination to be made is entitled, on request, to receive from the party against whom the order is made a similar report of any examination previously or thereafter made pertaining to the same condition and to a similar inspection of all diagnostic aids.

(4) If a person who is examined refuses to deliver a report, then the administrative law judge, on motion and notice, may enter an order requiring delivery on terms as are just. If a physician refuses or fails to comply with this rule, then the administrative law judge may order the physician to appear for a discovery deposition.

(5) By requesting and obtaining a report on the examination ordered under this rule or by taking the deposition of the examiner, the person examined waives any privilege he or she may have in that action, or

Annual Administrative Code Supplement
1998 – 2000 Edition

another action involving the same controversy, regarding the testimony of every other person who has examined or may thereafter examine the person as to the same mental or physical condition.

(6) Subrule (2) of this rule applies to an examination made by agreement of the parties, unless the agreement expressly provides otherwise.

(7) Subrule (2) of this rule does not preclude discovery of a report of an examining physician or the taking of a deposition of the physician under any other rule.

History: 2000 MR 1, Eff. Jan. 27, 2000.

R 38.175 Briefs.

Rule 45. The administrative law judge may require the parties to file briefs, may limit the length of the briefs, and shall designate the manner of, and time for, filing and serving the briefs.

History: 1954 ACS 86, Eff. Feb. 4, 1976; 1979 AC; 2000 MR 1, Eff. Jan. 27, 2000.

R 38.176 Exceptions briefs.

Rule 46. (1) Within the time allowed by the act, a party shall file an original and 6 copies of the brief and of the statement of exceptions, statement of cross-exceptions, or statement in support of the preliminary decision and order.

(2) The argument presented in a brief in support of the statement of exceptions or statement of cross-exceptions shall correspond to the statement of exceptions or cross-exceptions.

(3) Except as permitted by order of the commission, briefs are limited to 50 double-spaced pages, exclusive of tables, indexes, appendices, and title page. Quotations and footnotes may be single-spaced. At least 1-inch margins shall be used, and printing shall not be smaller than 12-point type.

(4) The brief shall contain, in the following order, all the following items:

(a) A table of contents, listing the exceptions or cross-exceptions, in the order of presentation, with the numbers of the pages where the discussion of the exceptions or cross-exceptions appear in the brief.

(b) An index of authorities, listing in alphabetical order all case authorities cited, with the complete citations including the years of decision, and all other authorities cited, with the numbers of the pages where they appear in the brief. Parallel citations of Michigan statutes are required.

(c) A statement of facts, which shall be supported by specific page references to the record. Page references to the record shall also be given to show whether the issue was preserved for review by appropriate objection or by other means.

(d) The arguments, each portion of which shall be prefaced by the principal point stated in capital letters or boldface type.

(e) The relief requested.

(f) A signature.

(5) If, on its own initiative or on a party's motion, the commission concludes that a brief does not substantially comply with the requirements in this rule, the commission may order the party who filed the brief to file a supplemental brief within a specified time correcting the deficiencies or the commission may strike the nonconforming brief.

History: 1954 ACS 86, Eff. Feb. 4, 1976; 1979 AC; 2000 MR 1, Eff. Jan. 27, 2000.

R 38.177 Decision or order.

Rule 47. (1) A decision or order of the commission shall be effective only if voted upon by a majority of the members of the commission. (2) A decision or order of the commission shall be served, in writing, on the parties concerned, or on their attorneys if represented, by certified mail.

History: 1954 ACS 86, Eff. Feb. 4, 1976; 1979 AC; 2000 MR 1, Eff. Jan. 27, 2000.

R 38.178 Rescinded.

History: 1954 ACS 86, Eff. Feb. 4, 1976; 1979 AC; Rescinded 2000 MR 1, Eff. Jan. 27, 2000.

R 38.179 Correction of clerical mistakes.

Annual Administrative Code Supplement
1998 – 2000 Edition

Rule 49. Clerical mistakes in judgments, orders, or other parts of the record and errors arising from oversight or omission may be corrected by the commission at any time on its own initiative or, after notice, on motion of a party, if the commission orders correction.

History: 2000 MR 1, Eff. Jan. 27, 2000.

DEPARTMENT OF MANAGEMENT AND BUDGET
PUBLIC SCHOOL EMPLOYEES' RETIREMENT BOARD
GENERAL RULES

R 38.221—R 38.235
Source: 1997 AACS.

PROCEDURE FOR CONDUCTING HEARINGS

R 38.301—R 38.308
Source: 1997 AACS.

DEPARTMENT OF MANAGEMENT AND BUDGET
DIRECTOR'S OFFICE
SUGGESTION AWARDS PROGRAM

R 38.901
Source: 1988 AACS.

R 38.903
Source: 1988 AACS.

R 38.906
Source: 1988 AACS.

R 38.907
Source: 1988 AACS.

R 38.908
Source: 1988 AACS.

R 38.909
Source: 1988 AACS.

R 38.911
Source: 1988 AACS.

PUBLIC SCHOOL EMPLOYEES' RETIREMENT BOARD
GENERAL RULES

PART 1. GENERAL PROVISIONS

R 38.1101
Source: 1985 AACS.

Annual Administrative Code Supplement
1998 – 2000 Edition

R 38.1102
Source: 1985 AACS.

R 38.1103
Source: 1985 AACS.

R 38.1104
Source: 1985 AACS.

R 38.1105
Source: 1985 AACS.

R 38.1106
Source: 1985 AACS.

R 38.1107
Source: 1985 AACS.

R 38.1108
Source: 1985 AACS.

R 38.1109
Source: 1985 AACS.

R 38.1110
Source: 1985 AACS.

R 38.1111
Source: 1985 AACS.

R 38.1112
Source: 1985 AACS.

R 38.1113
Source: 1985 AACS.

R 38.1114
Source: 1985 AACS.

R 38.1115
Source: 1985 AACS.

R 38.1116
Source: 1985 AACS.

R 38.1117
Source: 1985 AACS.

R 38.1118
Source: 1985 AACS.

R 38.1119
Source: 1985 AACS.

R 38.1120
Source: 1985 AACS.

R 38.1121
Source: 1985 AACS.

Annual Administrative Code Supplement
1998 – 2000 Edition

R 38.1122
Source: 1985 AACS.

R 38.1123
Source: 1985 AACS.

R 38.1124
Source: 1985 AACS.

R 38.1125
Source: 1985 AACS.

R 38.1126
Source: 1985 AACS.

R 38.1127
Source: 1985 AACS.

R 38.1128
Source: 1985 AACS.

R 38.1129
Source: 1985 AACS.

R 38.1130
Source: 1985 AACS.

R 38.1131
Source: 1985 AACS.

PART 2. HEARING PROCEDURES

R 38.1201
Source: 1985 AACS.

R 38.1202
Source: 1985 AACS.

R 38.1203
Source: 1985 AACS.

R 38.1204
Source: 1985 AACS.

R 38.1205
Source: 1985 AACS.

R 38.1206
Source: 1985 AACS.

R 38.1207
Source: 1985 AACS.

DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES
SURVEY AND REMONUMENTATION COMMISSION
GENERAL RULES

Annual Administrative Code Supplement
1998 – 2000 Edition

R 54.201
Source: 1992 AACS.

R 54.202
Source: 1992 AACS.

R 54.203
Source: 1992 AACS.

R 54.204
Source: 1992 AACS.

R 54.205
Source: 1992 AACS.

R 54.206
Source: 1992 AACS.

R 54.207
Source: 1992 AACS.

R 54.208
Source: 1992 AACS.

R 54.209
Source: 1992 AACS.

R 54.210
Source: 1992 AACS.